

LEGAL SERVICES CORPORATION

Board of Directors Meeting

January 22 - 24, 2015

Location:

Westin Colonnade Hotel
180 Aragon Avenue
Coral Gables, FL 33134



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Schedule

**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
JANUARY 22 - 24, 2015**

MEETING SCHEDULE

**Meeting Location:
Westin Colonnade
180 Aragon Avenue
Coral Gables, Florida 33134
Tel: (305) 441-2600**

THURSDAY, JANUARY 22, 2015

| Start | End | Meeting/Event | Location |
|--------------|------------|------------------------------------------------------------------------|------------------------------------------|
| 1:00pm | 2:30pm | Governance & Performance Review Committee | Colonnade Ballroom B Westin Colonnade |
| 2:30pm | 4:00pm | Audit Committee | Colonnade Ballroom B Westin Colonnade |
| 4:00pm | 4:30pm | Communications Subcommittee of the Institutional Advancement Committee | Colonnade Ballroom B Westin Colonnade |
| 4:30pm | 5:30pm | Institutional Advancement Committee | Colonnade Ballroom B Westin Colonnade |
| 5:30pm | 7:00pm | Operations & Regulations Committee | Colonnade Ballroom B Westin Colonnade |

EMERGENCY CONTACTS:

In the case of emergency, please contact Rebecca Fertig Cohen at (202) 577-6313 or cohenr@lsc.gov or Bernie Brady at (202) 295-1568 or bradyb@lsc.gov

**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
JANUARY 22 - 24, 2015**

MEETING SCHEDULE

**Meeting Location:
Westin Colonnade
180 Aragon Avenue
Coral Gables, Florida 33134
Tel: (305) 441-2600**

FRIDAY, JANUARY 23, 2015

| Start | End | Meeting/Event | Location |
|----------------|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| 8:30am | 9:30am | Finance Committee | Colonnade Ballroom B Westin Colonnade |
| 9:30am | 11:00am | <p>LSC Grantee Presentation to the Board <i>William Abbuehl</i>, Executive Director, Community Legal Services of Mid-Florida, Inc. <i>Richard Austin</i>, Executive Director, Legal Services Virgin Islands, Inc. <i>Joan Boles</i>, Deputy Director, Bay Area Legal Services, Inc. <i>Marcia Cypen</i>, Executive Director, Legal Services of Greater Miami, Inc. <i>Charles Hey-Maestre</i>, Executive Director, Puerto Rico Legal Services, Inc. <i>Donald Isaac</i>, Executive Director, Florida Rural Legal Services, Inc. <i>Kristine Knab</i>, Executive Director, Legal Services of North Florida, Inc. <i>Christine Larsen</i>, Executive Director, Three Rivers Legal Services, Inc. <i>Barbara Prager</i>, Executive Director, Coast to Coast Legal Aid of South Florida, Inc. <i>Rafael Rodriguez-Rivera</i>, Executive Director, Community Law Office, Inc.</p> | Colonnade Ballroom B Westin Colonnade |
| 11:00am | 12:15pm | <p>Delivery of Legal Services Committee <i>Jim Cook</i>, Executive Director, Idaho Legal Services, Inc. <i>Chris Larson</i>, Executive Director, Three Rivers Legal Services, Inc. <i>Allison Thompson</i>, former Executive Director, Three Rivers Legal Services, Inc. <i>Nikole Nelson</i>, Executive Director, Alaska</p> | Colonnade Ballroom B Westin Colonnade |

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| | | <p>Legal Services Corporation <i>Anthony Young</i>, Executive Director, Southern Arizona Legal Aid, Inc. <i>Rick Moyers</i>, Vice President for Programs & Communication, Meyer Foundation (<i>Moderator</i>)</p> | |
| 2:00pm | 4:45pm | <p style="text-align: center;">Welcoming Remarks <i>John G. Levi</i>, Board Chair, Legal Services Corporation</p> <p style="text-align: center;">Panel: The Importance of Access to Justice to the Judiciary <i>Judge Marcia G. Cooke</i>, U.S. District Court for the Southern District of Florida <i>Chief Justice Jorge Labarga</i>, Florida Supreme Court <i>Richard K. Leefe</i>, Leefe, Gibbs, Sullivan & Dupre (on behalf of Louisiana Chief Justice Bernette Johnson) <i>Chief Justice Liana Fiol Matta</i>, Tribunal Supremo de Puerto Rico <i>Judge William A. Van Nortwick, Jr.</i> Florida First District Court of Appeals (ret.) <i>Dean Martha Minow</i>, Harvard Law School and LSC Board Vice Chair (<i>Moderator</i>)</p> <p style="text-align: center;">Presentation: Using Technology to Expand Access to Justice: A Showcase of LSC's Technology Initiative Grants <i>Bethany A. Bandstra</i>, Legal Intern, University of Miami School of Law Health Rights Clinic <i>William D. Mueller</i>, Legal Intern, University of Miami School of Law Health Rights Clinic <i>Glenn Rawdon</i>, Program Counsel for Technology, Legal Services Corporation <i>Jane Ribadeneyra</i>, Program Analyst, Legal Services Corporation</p> | <p style="text-align: center;">University of Miami School of Law Room E352 1311 Miller Drive Coral Gables, FL 33155</p> |
| 5:00pm | 6:30pm | <p style="text-align: center;">Pro Bono Awards Reception <u>Welcoming Remarks</u> <i>John G. Levi</i>, Board Chair, Legal Services</p> | <p style="text-align: center;">University of Miami School of Law Alma Jennings Foundation Student Lounge</p> |

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| | | <p>Corporation <i>Dean Patricia D. White</i>, University of Miami School of Law <u>Speakers</u> <i>Francisco R. Angones</i>, Partner, Angones McCluire & Garcia and former Florida Bar Association President <i>Melissa Pershing</i>, Director of Grants & Development, Florida Bar Foundation <i>Judge Vance E. Salter</i>, Florida Third District Court of Appeals <u>Awardees</u> <i>Russell E. Carlisle</i> <i>Holland & Knight</i> <i>Wendy S. Loquasto</i> <i>Frank E. Maloney, Jr.</i> <i>Judge Ashley B. Moody</i> <i>Timothy A. Moran</i> <i>David E. Steckler</i></p> | <p>1311 Miller Drive Coral Gables, FL 33155</p> |
|--|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|

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**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
JANUARY 22 - 24, 2015**

MEETING SCHEDULE

**Meeting Location:
Westin Colonnade
180 Aragon Avenue
Coral Gables, Florida 33134
Tel: (305) 441-2600**

SATURDAY, JANUARY 24, 2015

| Start | End | Meeting/Event | Location |
|--------------|------------|----------------------|------------------------------------------|
| 9:30am | 11:30am | OPEN Board Meeting | Colonnade Ballroom B Westin Colonnade |
| 11:30am | 12:30pm | CLOSED Board Meeting | Colonnade Ballroom B Westin Colonnade |

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Governance and Performance Review Committee

Agenda

GOVERNANCE AND PERFORMANCE REVIEW COMMITTEE

January 22, 2015

Agenda

OPEN SESSION

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting of October 6, 2014
3. Approval of minutes of the Committee's Open Session telephonic meeting of November 17, 2014
4. Discussion of Board evaluations Staff Report on 2014 Board and Committee Evaluations; and Discussion of Governance and Performance Committee evaluations and the Committee's goals for 2015
 - Carol Bergman, Director of Government Relations & Public Affairs
5. Discussion of President's evaluation for 2014
6. Discussion of the Inspector General's evaluation for 2014
7. Consider and act on revised Code of Ethics and Conduct, ***Resolution 2015-XXX***
 - Ron Flagg, Vice President & General Counsel
8. Briefing on Management Transition Resources
 - Ron Flagg, Vice President & General Counsel
 - Jim Sandman, President

9. Report on Public Welfare Foundation grant, Margaret A. Cargill Foundation grant, and LSC's research agenda
 - Jim Sandman, President
10. Consider and act on other business
11. Public comment
12. Consider and act on motion to adjourn meeting

**Draft Minutes of the October 6, 2014
Open Session Meeting**

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

Open Session

Monday, October 6, 2014

DRAFT

Committee Chair Martha L. Minow convened an open session meeting of the Legal Services Corporation's ("LSC") Governance and Performance Review Committee ("the Committee") at 9:24 a.m. on Monday, October 6, 2014. The meeting was held at the Hilton Albany, 40 Lodge Street, Albany, New York 12207.

The following Committee members were present:

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

Other Board members present:

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

Also attending were:

| | |
|------------------|---------------------------------------------------------------------------------------|
| James J. Sandman | President |
| Lynn Jennings | Vice President for Grants Management |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel, and Corporate Secretary |
| Carol A. Bergman | Director, Office of Government Relations and Public Affairs (GRPA) |
| Carol Rauscher | Director of Media Relations, Office of Government Relations and Public Affairs (GRPA) |
| Wendy Long | Executive Assistant, Office of Government Relations and Public Affairs (GRPA) |
| David Richardson | Comptroller and Treasurer, Office of Financial and Administrative Services |
| Bernie Brady | Travel Coordinator |

| | |
|---------------------|-------------------------------------------------------------------------------------------|
| Jeffrey E. Schanz | Inspector General |
| John Seeba | Assistant Inspector General for Audit, Office of the Inspector General (OIG) |
| Lora M. Rath | Director, Office of Compliance and Enforcement (OCE) |
| Julia Kramer | Program Counsel, Office of Compliance and Enforcement (OCE), Executive Office |
| Janet Labella | Director, Office of Program Performance (OPP) |
| Herbert S. Garten | Non-Director Member, Institutional Advancement Committee |
| C. Kenneth Perri | Executive Director, Legal Assistance of Western New York |
| Paul J. Lupia | Executive Director, Legal Aid Society of Mid-New York |
| Barbara Finkelstein | Executive Director, Legal Services of the Hudson Valley |
| Lillian M. Moy | Executive Director, Legal Aid Society of Northeastern New York |
| Robin C. Murphy | National Legal Aid and Defenders Association (NLADA) |
| Lisa Wood | American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID) |

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

Committee Chair Minow called the meeting to order.

MOTION

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

VOTE

The motion passed by voice vote.

MOTION

Ms. Reiskin moved to approve the minutes of the Committee's meeting of July 20, 2014. Mr. Keckler seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Bergman reported on LSC's progress in implementing the 2010 GAO recommendations. She reported LSC no longer has any pending GAO recommendations; the final recommendation has been closed out. She also reported the GAO has requested LSC participate in a study along with other federal programs that target low-income individuals, families and communities. Next, Ms. Bergman briefed the Committee on the Board and Committee evaluations, and answered Committee members' questions.

President Sandman gave a progress report on LSC's research agenda. He reported LSC's consultants are working to develop an online toolkit to guide grantees in collection and use of outcomes data. The toolkit will have (1) outcomes measurement practices currently in use by other funders and by individual grantees; and (2) will offer a menu of options and recommendation for best practices. President Sandman answered Committee members' questions.

Next, President Sandman briefed the Committee on the new grant LSC received from the Margaret A. Cargill Foundation that has been allocated to develop a legal services response plan and delivery system following disasters in the Midwest. President Sandman answered Committee members' questions.

Committee Chair Minow invited public comment and received none

There was no other business to consider.

MOTION

Mr. Keckler moved to adjourn the meeting. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

The Committee meeting adjourned at 9:55 a.m.

**Draft Minutes of the November 17, 2014
Open Session Telephonic Meeting**

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

Open Session

Monday, November 17, 2014

DRAFT

Committee Chair Martha L. Minow convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Governance and Performance Review Committee ("the Committee") at 3:46 p.m. on Monday, November 17, 2014. The meeting was held at the F. William McCalpin Conference Center, LSC Headquarters, 3333 K Street, NW, Washington D.C. 20007.

The following Board Members were present by telephone:

Martha L. Minow, Chair
Sharon L. Browne
Robert J. Grey, Jr.
Charles N.W. Keckler
Victor B. Maddox
Father Pius Pietrzyk
Julie A. Reiskin
Gloria Valencia-Weber
John G. Levi, *ex officio*

Also attending were:

| | |
|--------------------|---------------------------------------------------------------------------------|
| James J. Sandman | President |
| Lynn Jennings | Vice President for Grants Management |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel and Corporate Secretary |
| Atitaya Rok | Office of Legal Affairs |
| Carol A. Bergman | Director, Office of Government Relations and Public Affairs |
| Treefa Aziz | Government Affairs Representative, GRPA |
| Jeffrey E. Schanz | Inspector General |
| Laurie Tarantowicz | Assistant Inspector General and Legal Counsel, Office of the Inspector General |
| John Seeba | Assistant Inspector General for Audit, Office of the Inspector General |
| Joel Gallay | Special Counsel to the Inspector General, Office of the Inspector General |
| David O'Rourke | Assistant Inspector General for Investigations, Office of the Inspector General |

| | |
|---------------|-----------------------------------------------------------------------------------------------|
| David Maddox | Assistant Inspector General for Management and Evaluation, Office of the Inspector General |
| Traci Higgins | Director, Office of Human Resources |
| Sophia Mason | Office of Human Resources |
| Janet LaBella | Director, Office of Program Performance |

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

Committee Chair Minow called the open session telephonic meeting to order.

MOTION

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

VOTE

The motion passed by voice vote.

Mr. Flagg briefed the Committee on the Health Reimbursement Arrangement Plan and resolution that would delegate authority to the LSC President to amend employee health benefits. He answered questions from the Committee.

Ms. Browne recommended that the Board approve the resolution adopting the Health Reimbursement Arrangement Plan.

There was no other business to consider.

Committee Chair Minow solicited public comment and received none.

MOTION

Ms. Browne moved to adjourn the meeting. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

The Committee meeting adjourned at 3:59 p.m.

2014 Committee Evaluations and 2015 Goals and 2014 Board Evaluations

SUMMARY OF 2014 GOVERNANCE AND PERFORMANCE COMMITTEE EVALUATION RESPONSES

All members strongly agreed that:

- Committee members understand the goals and purpose of our committee; committee members agree on the goals and purpose of the committee.
- There is alignment between our committee's goals and purposes and the actions taken and/or the decisions made by the committee.
- The minutes of our meetings are accurate and reflect the discussion, next steps and/or action items articulated by the members.
- Our committee members treat each other with respect and courtesy.

Members either strongly agreed or agreed that:

- There is alignment between our committee's goals and purposes and the goals of LSC's Strategic Plan.
- Our committee has responded effectively and appropriately to issues of immediate concern brought before it; our committee has made significant progress on long-term strategic issues related to its goals and purposes.
- Our committee has adequate resources (for example, staff time and expertise) to support its function.
- Our committee meetings are held regularly and with appropriate frequency.
- The length of our committee meetings is appropriate and respectful of the agenda. We consistently use our meeting time well; issues get the time and attention proportionate to their importance.
- We receive the meeting agenda and materials sufficiently in advance of the meeting to allow for appropriate review and preparation.
- Our committee membership represents the talents and skills required to fulfill the goals and purposes of the committee. Our committee members come to meetings prepared and ready to contribute.
- As a general rule, when I speak I feel listened to and that my comments are valued.

The following are direct quotes:

Members liked:

- This committee performs an important task regarding LSC oversight. The members treat each other with respect and the chair of the committee is always well prepared, organized and leads the committee in an efficient and respectful manner.
- Efficient and focused.
- It was great being part of the closing of the GAO recommendations.

Ideas for Improvement:

- Receiving the board book earlier.
- Fine as they are.

- Not sure if we should be taking on anything else now that GAO is closed to get board in shape to turn over to next board

Future Focus:

- Completion of research projects.
- Establish an institutionalized research function at the Corporation, strengthen links of all performance reviews to Strategic Plan.
- Succession planning for LSC.

SUMMARY OF LSC BOARD OF DIRECTORS 2014 EVALUATION RESPONSES

Board members responded to the statements below based on the following scale: 1=Strongly Agree; 2=Agree; 3=Disagree; 4=Strongly Disagree

1. The Board has a full and common understanding of LSC's mission and procedures, and the roles and responsibilities of the Board; Board members are involved and interested in the Board's work. **(14 strongly agree; 1 agree)**
2. The Board's plans are consistent with the goals of LSC's Strategic Plan. **(11 strongly agree, 4 agree)**
3. The structural pattern of LSC's governance (Board, Committees, President, Officer, and staff) is clear. **(12 strongly agree, 3 agree)**
4. The Board has clear goals and measurements resulting from relevant and realistic strategic planning; the Board regularly monitors and evaluates progress toward strategic goals and program performance. **(6 strongly agree, 9 agree)**
5. The Board receives regular and timely reports on finances, budgets, program performance, grantee issues, and other important matters. **(9 strongly agree, 6 agree)**
6. The Board provides input to and annually approves the budget request to Congress. **(14 strongly agree, 1 agree)**
7. The Board effectively represents LSC to the community. **(12 strongly agree, 3 agree)**
8. Board meetings facilitate focus and progress on important organizational matters. **(11 strongly agree, 4 agree)**
9. The Board has an adequate opportunity to evaluate the LSC President, Officers and Inspector General annually. **(10 strongly agree, 5 agree)**
10. The Board adheres to standards of ethics and conduct. **(14 strongly agree, 1 agree)**
11. Board members possess the skills and knowledge to carry out their duties. **(13 strongly agree, 2 agree)**

PRIORITIES FOR ATTENTION IN 2015 INCLUDE: (Please list three to five areas/issues on which you believe the Board should focus its attention in the next year. (Please be as specific as possible)

■ **Grantee Governance & Performance**

Seven (13) Board Members identified continued grantee oversight and effectiveness as a priority.

- Insuring adherence to purposes and provisions of LSC Act, while eliminating political activity by grantees
- Work with management to achieve faster resolution of questioned costs and other IGO concerns regarding grantees
- Supporting top notch governance of our grantees
- Assessing effectiveness of fiscal oversight/improving internal controls of grantees
- Systematic comparison of grantees to identify best and worst performers
- Measuring program quality
- Elimination of unnecessary and unmandated restrictions on grantees
- Innovation

■ **40th Anniversary**

Five (5) Board Members identified continuing the efforts launched during 40th anniversary as a priority.

- Continue mission and message
- Fundraising
- Follow up on success of anniversary event

■ **Messaging**

Five (5) Board Members identified communication and outreach to increase public awareness as a priority.

- Outreach to broader community

■ **Strategic Plan**

Four (4) Board Members identified implementation of the strategic plan as a priority.

- Receive a detailed report on progress toward strategic plan implementation, with reference to the specific goals in the plan
- Evaluating the implementation of the Strategic Plan

■ **Pro Bono**

Three (3) Board Members identified continued focus on Pro Bono as a priority.

- Revive work of the Pro Bono Task Force Committee, including the Rules Subcommittee.
- Continued focus on encouraging pro bono involvement

■ **Enhance Data/Technology**

Three (3) Board Members identified expanding the use of data and technology as a priority.

- Greater assistance through technology
- Broaden technology reach
- Enhanced use of quantitative grantee data both at the field and HQ level

■ **Funding**

Three (3) Board Members identified the need to develop outside sources of funding as a priority.

- Increase endowment funding
- Maintaining funding in changed political environment
- Helping our grantees effectively perform with less money

■ **Relationship With Congress**

Three (3) Board Members identified improved relations with Congress as a priority.

- Educate new Congress on LSC work

■ **Development/ Fundraising**

Two (2) Board Members identified continued efforts in development/fundraising as a priority.

- Outreach to business community

■ **Other Priorities**

Each of the following priorities was identified by one (1) Board member

- Continue to explore scholarship opportunities for attorneys (bring back Reggie or something similar)
- Plan for transition to a new board, so as to reduce loss of momentum and institutional knowledge
- Reviewing the internal efficiency of LSC (i.e., the corporation rather than the grantees)
- Furthering goal of providing legal counsel to low income Americans without doing the work of social welfare agencies providing income maintenance.
- Continue role of convener
- Assuring client voice is included at all levels
- Evaluation of delivery systems, including pro bono models, in terms of efficiency and effectiveness
- Access to Justice

Board members responded Yes or No to the statements below:

- Do I understand LSC's mission? **(15 Yes, 0 No)**
- Am I knowledgeable about LSC's programs and services? **(15 Yes, 0 No)**
- Do I follow trends and important developments related to LSC? **(15 Yes, 0 No)**
- Do I read and understand LSC's financial statements? **(15 Yes, 0 No)**
- Do I have a good working relationship with the LSC Board Chair? **(15 Yes, 0 No)**
- Do I have a good working relationship with the LSC President? **(15 Yes, 0 No)**
- Do I prepare for and participate in Board meetings and committee meetings? **(15 Yes, 0 No)**
- Do I act as a goodwill ambassador for LSC in my community? **(14 Yes, 1 No)**
- Do I find serving on the Board to be a satisfying and rewarding experience? **(15 Yes, 0 No)**

Board members responded to the following questions:

1. What factors contribute to my performance or lack of performance in the areas above? (Please be specific.)

- Today is my last day on the board. It was a very difficult decision to make. I found my experience to be very satisfying and rewarding.
- Regular attendance at LSC board meetings enables me to be knowledgeable about current issues of importance.
- Experience
- Time
- Learning about LSC is an ongoing process.

- Regular communication with staff. Need to complete complex high-value projects.
- The compelling circumstances that exist in the country
- Scheduling conflicts are the only factor limiting my full participation in all board meetings. More advance notice of start and stop times and dates would help
- As someone naive about D.C. politics, I sometimes need navigational help
- The mission drives my interest and performance; board materials are very comprehensive
- It is important for me to continue to get materials ahead of time, being able to ask questions and having a couple individual Board members to whom I can ask a lot of questions. It is also helpful for me to be able to attend conferences (NLADA and Equal Justice) to be able to keep up on legal trends and communicate with other clients. Having reimbursement or payment of all expenses is imperative for me to be able to attend and it is very helpful that I have to put out minimal costs upfront.
- I feel I could contribute more if given more to do.
- The most significant factor hindering my ability to contribute is my distance from Washington. The factors that encourage me to work are: the importance of the work, my duty as a Senate-confirmed Presidential appointment, and the professionalism and camaraderie of the Board.

2. What would I need to maintain/increase my level of board commitment? (Please be specific.)

- Today is my last day on the board. It was a very difficult decision to make. I found my experience to be very satisfying and rewarding.
- I need to continue to receive and review regular communications from board and staff.
- It is all there
- Can't say at present.
- Greater quantitative data on grantee performance, together with analyses
- I believe myself to be fully committed
- Better advance communication regarding the timing (including start and end times) of quarterly board meetings.
- Help in learning to fund-raise at the national level
- No issues; up to president and board chair
- Continuation of the support that I already receive. (ability to ask questions, funding for conferences and upfront payment of most expenses)
- Knowing what I could contribute
- To live closer.

3. Other comments or suggestions that will help the board increase its effectiveness. (Please be specific.)

- Regular interaction with LSC staff and executive directors of LSC grantee programs.
- I have always believed that there is too much time devoted to panel presentations and too little time devoted to questioning of panel members by the board. I have practically memorized the script for many of the judge panels, and I don't find them particularly helpful at this point. To the extent they are helpful, I would cut the size of every panel by at least half, and allow for questions and interaction. This is true as well, perhaps even more so, of the panels of grantee representatives, clients, etc. Almost uniformly, I have questions that never get asked because we have run out of time. A more generalized comment about board meetings is that there is too much scheduled. By the time the pro bono reception is done, I have very little interest in attending a dinner that takes two or more hours. I would prefer a smaller dinner, or a shorter reception, or both.
- It might be interesting to be issued a quarterly digest of relevant articles on legal aid and related topics. Not just news about LSC, but the best thinking in the field.
- I understand the need for the Board to engage with and recognize local grantee and legal services communities, but I think we would be more effective in our role if we spent more time during quarterly meetings on substantive committee and board meetings and less time in hearings and panel discussions, including panel discussions on the importance to the judiciary of access to justice.
- We need time to discuss without so many time pressures and running to catch planes
- All board members participating in endowment fundraising.
- Continue the current leadership. Some committees should set more specific goals and meet more frequently.
- More even distribution of work among board members

LSC Code of Ethics and Conduct



OFFICE OF LEGAL AFFAIRS

MEMORANDUM

TO: Governance & Performance Review Committee

FROM: Ronald S. Flagg, Vice President and General Counsel
Atitaya Rok, Assistant General Counsel

DATE: January 6, 2015

SUBJ: Proposed Revised LSC Code of Ethics and Conduct

This memorandum addresses the proposed revised LSC Code of Ethics and Conduct (the Code), a copy of which is attached.

On March 24, 2008, the Board of Directors (Board) adopted the Code, which provides guidance to LSC employees, officers, and Board members on the Corporation's expectations for standards of ethics and conduct. Over the past 15 months, the Board has amended several policies in the Code – Conflicts of Interest,¹ Whistleblower,² and Equal Employment Opportunity.³ In the process of replacing these policies with the amended versions, management determined this would be a good opportunity to reformat the Code to conform to what we view as the most effectively presented codes adopted by other leading for- and non-profit organizations in the country.

In addition to replacing the prior Conflicts of Interest, Whistleblower, and Equal Employment Opportunity policies with the recently amended versions, we made two substantive changes to the proposed revised Code. First, we added a message from the Chairman and the President at the beginning to underscore the importance of the Code. Second, we revised the Whistleblower Policy to incorporate a few edits proposed by the Union. These edits include: 1) changing "Director, officer, and employee" to "employee, officer, and Director" throughout the policy; 2) moving up the "No Retaliation" and "Acting in Good Faith" paragraphs from the end of the policy (previously paragraphs 8 and 9, respectively, now paragraphs 5 and 6), because they are the core of the policy; and 3) revising the "No Retaliation" paragraph so that the definition of "retaliation" mirrors the D.C. Whistleblower Protection Act. The remainder of the Code, in substance, is unchanged.

The format of the Code, however, has been changed substantially by transforming the single-spaced Word document into a handbook with graphics, similar to LSC's Annual Report

¹ See Resolution 2013-020 *Adopting a Revised Conflicts of Interest Policy* (October 22, 2013).

² See Resolution 2014-004 *Adopting a Whistleblower Policy* (January 25, 2014).

³ See Resolution 2014-013 *Adopting a Revised Equal Opportunity, Non-Discrimination, and Anti-Harassment Policy* (July 22, 2014).

and Budget Request. The new Code will be printed internally at LSC. Management believes the reformatted and enhanced Code will more effectively communicate, both internally and externally, LSC's commitment to the highest levels of ethics and conduct.

Subject to Board approval, Management will circulate hard copies of the Code to each employee, officer, and Director (and to individuals joining LSC in the future), and post it to both the internal and public websites.



DRAFT COPY

Code of Ethics and Conduct

Approved by the Board of Directors
January 24, 2015

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PROFESSIONALISM RESPECT
EXCELLENCE TEAMWORK
INTEGRITY FAIRNESS
TRUST DIVERSITY

Message from the LSC Board Chairman and President

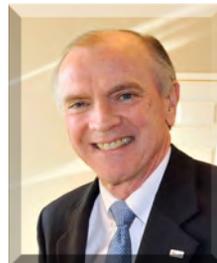
As the single largest funder of civil legal aid for low-income Americans in the country, and as a steward of public funds, the Legal Services Corporation has a responsibility to conduct business with honesty and integrity in accordance with the highest ethical and legal standards. LSC is guided by core values to define our conduct, including integrity, fairness, trust, respect, professionalism, excellence, diversity, and teamwork. These core values are not just aspirations. They are bonds that connect, unite, and focus us in our work. Ethical behavior serves as the foundation for meaningful and sustainable success. By operating at the highest ethical and legal standards, we all work to promote the delivery of the highest quality legal services to the greatest number of eligible clients, thereby maximizing access to justice.

The LSC Code of Ethics and Conduct defines LSC's values, responsibilities, and commitments. It is a framework that guides how we conduct our business and work with each other—and with the public—every day. It sets forth the Corporation's standards and expectations of conduct by all employees, officers, and members of the Board Directors. Everyone at LSC is expected to do the right thing in the right way.

Our conduct affects the integrity and credibility of the organization. Each of us plays an important role in establishing and sustaining an



JOHN G. LEVI



JAMES J. SANDMAN

environment that is respectful of others, committed to excellence, and attentive to the highest ethical standards. Each of us is responsible for adhering to the letter and spirit of the Code to ensure LSC's success.

It is important that every one of us feels comfortable raising concerns and identifying potential issues, so we offer many channels of communication to seek guidance and report concerns. We do not tolerate any retaliation against anyone who raises a concern in good faith.

Each of us needs to understand and abide by this Code every day, in everything we do. Please carefully review this Code and adhere to the standards it describes. While it cannot address every situation you may encounter, the Code is a valuable resource for helping ensure that our actions are consistent with LSC's values and that we all work to safeguard LSC's reputation. If you have any questions about the Code, please contact either of us, your manager, the Ethics Officer, the Director of the Office of Human Resources, or the Office of Inspector General.

A handwritten signature in black ink, appearing to read "John G. Levi".

John G. Levi
Chairman

A handwritten signature in blue ink, appearing to read "Jim Sandman".

James J. Sandman
President

Purpose

LSC maintains and enforces the highest standards of ethics and conduct. LSC expects all employees, officers, and Directors to perform their work with the utmost honesty, truthfulness, and integrity.

The purpose of this Code is to establish LSC's expectations for individual behavior, to provide basic guidelines for situations in which ethical issues arise, and to assist employees, officers, and Directors to carry out daily activities within appropriate ethical and legal standards. These ethical and legal standards apply to all of our business relationships and activities, including, but not limited to, those involving grantees, applicants, consultants, and vendors, as well as with one another. This Code is not intended to confer a legal right of action upon employees, officers, and Directors or third parties.



Compliance

LSC's employees, officers, and Directors are required to comply with this Code and with all laws, rules, regulations, and policies pertaining to LSC and to act in the best interests of LSC. This means following both the letter and spirit of the law. When compliance questions arise, employees should seek advice from their managers, the Ethics Officer, the Director of the Office of Human Resources, or the Office of Inspector General. The Board of Directors shall designate an official to serve as the Ethics Officer for the Corporation.

The policies and procedures set out in this Code are applicable to the Office of the Inspector General, except in the event that they are inconsistent with the provisions of the Inspector General Act or other applicable laws. The Inspector General will designate an official to function as the Ethics Officer for members of the Office of Inspector General, subject to ratification by the Board of Directors.



Leadership Responsibilities

LSC's managers, officers, and Directors have a special obligation to help create a culture within LSC that promotes the highest standards of ethics and compliance. All employees shall have sufficient information, training, and guidance to comply with all laws, regulations, and policies pertaining to LSC, as well as access to the Ethics Officer, or the OIG Ethics Officer for OIG employees and officers, to help resolve ethical dilemmas.



Confidentiality

LSC, by law and regulation, will make information and records concerning its operations, activities, and business available to the public to the maximum extent possible. Records will be withheld from the public only in accordance with the Freedom of Information Act, the LSC Act and regulations, and other applicable laws. However, LSC employees, officers, and Directors must take reasonable care to avoid disclosure of confidential information, including exercising due care with regard to LSC records. The obligation to preserve confidential information continues even after employment with LSC or service on the Board of Directors ends.



Conflicts of Interest

Purpose

The purposes of this policy are to protect LSC and to provide guidance to LSC employees, officers, and Directors in identifying and handling any conflicts and potential conflicts of interest affecting the interests of LSC.

Statement of Policy

Employees, officers, and Directors are to avoid legal, financial, personal, or other conflicts and potential conflicts of interest involving LSC, to disclose any such conflicts that arise, and to remove themselves from a position of decision-making authority or influence on decisions or actions with respect to any conflict involving LSC.

In accordance with § 1005(c) of the LSC Act and Section 3.05 of the LSC Bylaws, Directors may not participate in any decision, action, or recommendation with respect to any matter that directly benefits such Director or pertains specifically to any firm or organization with which such Director is then associated or has



Conflicts of Interest

been associated within a period of two years.

Scope

This policy applies to all LSC employees, officers, and Directors acting in their official capacity. Employees of the Office of Inspector General (“OIG”) are covered by this policy, except as otherwise indicated herein. This policy also applies to non-Director members of committees of the Board of Directors. Any reference to “Directors” in this policy includes non-Director members of Board committees with respect to their participation in, and any action they may take in connection with, LSC-related activities. Depending on the nature of the conflict or potential conflict, this policy may also apply to immediate family members of LSC employees, officers, and Directors. This policy applies to all LSC matters, including, but not limited to, grants, contracts, purchases, leases, investments, or other commitments of LSC resources, and personnel matters.

Definitions

ABUSE: Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for one’s personal financial interests or those of an immediate family member or business associate. Abuse does not necessarily involve fraud or violation of laws, regulations or provisions of a contract or grant agreement.

CONFLICT OF INTEREST: A conflict of interest exists when an outside interest, activity, or relationship influences or appears to influence the ability of an employee, officer, or Director to exercise objectivity, or impairs or appears to impair his or her ability to perform his or her responsibilities as an employee, officer, and Director impartially and in the best interests of LSC. A conflict of interest occurs when:

- The employee, officer, or Director, or

any immediate family member has the opportunity to influence LSC’s grant-making, business, administrative, or other decisions or actions in a manner that could lead to personal gain or advantage;

- The employee’s, officer’s, or Director’s impartiality or duty of loyalty to LSC is impaired or appears to be impaired by the existence of a relationship with another person or entity; or
- The employee, officer, or Director, or any immediate family member has a potential or existing financial or other interest which impairs or appears to impair independence in the discharge of responsibilities to LSC.

FRAUD: A false representation of a material fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives another so that he or she acts, or fails to act, to his or her detriment.

Conflicts of Interest

IMMEDIATE FAMILY MEMBER: For purposes of this policy, the term “immediate family member” includes spouse, domestic partner, parents, children and their spouses, siblings and their spouses and children, and any members of the household. Also included are persons in those categories as step-relations.

WASTE: Waste involves not receiving reasonable value for money, or the dissipation of assets or resources, in connection with any Corporation-funded activities due to an inappropriate act or omission by persons with control over or access to Corporation resources. Waste does not necessarily involve a violation of law, and can arise from mismanagement, inappropriate or irresponsible actions, and the failure to exercise reasonable care and prudence in dealing with corporate assets and activities.

Examples of Conflict of Interest Activities and Relationships to be Avoided

The following activities and relationships

illustrate the types of conflicts or potential conflicts of interest that should be avoided and disclosed, as applicable, in accordance with this policy. This list is representative only, and is intended to provide guidance. It is not exhaustive.

SELF-BENEFIT: An employee, officer, or Director using his or her position or relationship within LSC to promote his or her own interests or those of immediate family member(s). This includes use of confidential or privileged information gained in the course of employment with, or as a Director of, LSC for personal benefit or gain or for the personal benefit or gain of immediate family member(s).

OTHER BUSINESS RELATIONSHIPS AND DEALINGS: Participating in deliberations or actions resulting in the approval of a grant or contract with an organization in which an employee, officer, or Director or immediate family member(s) has a financial or other interest or relationship, including an

organization with whom the employee, officer, or Director or immediate family member(s) is negotiating over prospective employment or has an arrangement regarding prospective employment.

OTHER ORGANIZATIONAL RELATIONSHIPS AND DEALINGS: Participating in deliberations or actions regarding policy proposals or advocacy positions advanced by organizations in which an employee, officer, or Director is an active participant (e.g., serving as an official of the organization, as a committee or subcommittee chairperson, as a spokesperson, or in another capacity going beyond mere membership) or with respect to proposals or positions advanced by an outside organization that the employee, officer, or Director has been involved in preparing.

USE OF LSC PROPERTY FOR PERSONAL ADVANTAGE: Using or taking LSC resources, including facilities, equipment, personnel,

Conflicts of Interest

and supplies, for private use (except as allowed under LSC policy for de minimis or emergency purposes) or other unauthorized activities.

MATTERS INVOLVING GRANTEES, SUBGRANTEES, AND GRANT APPLICANTS:

An employee, officer, or Director who has a position or association with, or connection to, a grantee, subgrantee, or grant applicant, or had such a position within the past three (3) years, participating in discussions or decisions relating to the grantee or grant applicants, about topics such as grant applications, reviews, questioned cost proceedings, personnel decisions, sanctions, or program performance evaluations. Possible positions, associations, or connections may include, but are not limited to: serving on a board or committee; serving as a former staff member or consultant; any financial ties to a program or a staff member; being or having been privy to confidential or other non-public information regarding LSC grantees; or having a significant, personal relationship with a member of program staff.

GIFTS: Personally accepting anything of value from an organization or individual that has a grant application, policy proposal, advocacy position paper, or contract proposal pending before LSC, or currently has a grant or contract from LSC, or has received a grant or contract from LSC within the preceding five years. (Items having a value of less than \$20.00 are excepted in accordance with § 11.13 of the Employee Handbook.)

INFLUENCE PEDDLING: An employee, officer, Director, or immediate family member(s) soliciting a benefit from an outside organization in exchange for using influence to affect the interests of that organization within LSC.

PROPERTY TRANSACTIONS: Directly or indirectly leasing, renting, trading, or selling real or personal property to or from LSC, or benefitting from such a transaction.

RECORDING OR REPORTING FALSE INFORMATION: Misrepresenting, withholding,

or falsifying relevant information required to be reported to external parties or used internally for decision-making purposes, in order to derive personal benefits.

Reporting Requirements and Procedures

Reporting requirements are different for: (1) LSC employees and officers; (2) OIG employees and officers; and (3) Directors.

LSC Employees and Officers

Any employee or officer who has or believes he or she has a conflict or potential conflict, or who becomes aware of a conflict or potential conflict of interest involving another individual, must promptly disclose it to his or her manager, the Ethics Officer, or one of the following individuals within LSC: the General Counsel, the Director of the Office of Human Resources, the Vice President for Grants Management, or the Inspector General.¹ The manager, or any of the other individuals identified above, will promptly notify the Ethics

¹ Employees, officers, and Directors should report fraud, waste, abuse, and violations of LSC laws or regulations to the OIG. The OIG maintains a hotline to receive reports of suspected fraud, waste, or abuse. More information for the OIG Hotline is available at <http://www.oig.lsc.gov/org/hotline.htm>. Reports to the OIG Hotline can be made via: Telephone: 1-800-678-8868 or 202-295-1670 • E-mail: hotline@oig.lsc.gov • Online: Form is available at http://www.oig.lsc.gov/hotline_form/hotline.aspx • Fax: 202-337-7155 • Mail: PO Box 3699, Washington, DC 20027-0199

Conflicts of Interest

Officer of any conflicts or potential conflicts, as well as any actions taken to resolve the issues. Employees or officers who believe it is not possible to avoid a conflict of interest must make full written disclosure of the pertinent circumstances to their manager or any of the other individuals identified above, who will bring it to the attention of the Ethics Officer. The Ethics Officer will notify the OIG of reported conflicts or potential conflicts of interest involving an officer of the Corporation or an office director, and of any conflicts or potential conflicts that involve violations of laws, rules, or regulations, fraud, waste, abuse, or mismanagement, or other serious wrongdoing.

Except as otherwise provided herein, the Ethics Officer will make a determination as to whether a conflict or potential conflict of interest exists and what actions, if any, are necessary to resolve the issue. In the event that the employee or officer wishes to appeal the Ethics Officer's decision, he or she may submit a written appeal to the LSC President

within ten (10) business days of receiving the Ethics Officer's written decision.

Conflicts or potential conflicts of interest involving the Ethics Officer must be disclosed to the LSC President, who will make a determination as to whether a conflict or potential conflict of interest exists and what, if any, actions are necessary to resolve the issue. The Ethics Officer may appeal the President's decision to the Board of Directors.

The LSC President will disclose any conflict or potential conflict of interest involving the President to the Ethics Officer for determination and resolution. The Ethics Officer will render a written decision and report his or her decision to the Board. The LSC President may submit a written appeal to the Board of Directors within ten (10) business days of receiving the Ethics Officer's written decision. The Ethics Officer will be notified of the Board's decision and any action taken for purposes of record-keeping.

OIG Employees and Officers

Any OIG employee or officer who has or believes he or she has a conflict or potential conflict, or becomes aware of a conflict or potential conflict of interest involving another individual, must promptly disclose it to his or her manager, the OIG Ethics Officer, or other appropriate individual within the OIG (e.g., an Assistant Inspector General). The manager or other individual referenced above will promptly notify the OIG Ethics Officer of any conflicts or potential conflicts, as well as any actions taken to resolve the issues. Employees who believe it is not possible to avoid a conflict of interest must make full written disclosure of the surrounding circumstances to their manager or any of the other individuals identified above, who will bring it to the attention of the OIG Ethics Officer. The OIG Ethics Officer will make a determination as to whether a conflict or potential conflict of interest exists and what actions, if any, are necessary to resolve the issue. In the event the OIG officer or employee wishes to appeal the OIG's Ethics Officer's

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decision, he or she may submit a written appeal to the Inspector General within ten (10) business days of receiving the OIG Ethics Officer's decision.

Conflicts or potential conflicts of interest involving the OIG Ethics Officer must be disclosed to the Inspector General, who will make a determination as to whether a conflict or potential conflict of interest exists and what, if any, actions are necessary to resolve the issue.

Directors

Any Director who has or believes he or she has a conflict or a potential conflict of interest, or who becomes aware of a conflict or potential conflict of interest within LSC, will promptly bring it to the attention of the Ethics Officer who will make a determination as to whether a conflict or potential conflict of interest exists and what actions, if any, are necessary to resolve the issue, including abstaining from discussion and voting on the matter. If a Director wishes to appeal the Ethics Officer's

written decision, he or she may submit a written appeal to the Board of Directors within ten (10) business days. Any matter involving a conflict or potential conflict of interest will be approved only when a majority of disinterested Directors determine that it is in the best interest of LSC to do so. The minutes of the meetings at which such votes are taken will record such disclosure, abstention, and voting results.

If a Director becomes aware of a personal affiliation or involvement (including seeking future employment) with an organization applying for or receiving an LSC grant or contract, or otherwise seeking LSC business, or any such affiliation or involvement of an immediate family member of the Director, the Director must fully disclose the nature of such affiliation or involvement in writing to the Ethics Officer and the Board of Directors. The Ethics Officer, in conjunction with the Board of Directors, will make a determination about any appropriate limitations on the Director's involvement in any decision related to the LSC

grant or business.

The Ethics Officer and Inspector General will be notified of any reported conflict or potential conflict of interest involving a Director.

Confidentiality

Reports of conflicts or potential conflicts of interest may be submitted on a confidential basis and will be kept confidential to the extent practicable. Identity or other information will be disclosed only as reasonably necessary for purposes of this policy or when legally required; however, confidentiality is not guaranteed.

No Retaliation

LSC will not discharge, threaten, or discriminate against any employee, officer, or Director in any manner for reporting in good faith conflicts or potential conflicts of interest involving another employee, officer, or Director. Any such act of retaliation will be reported immediately to the Inspector General. The

Conflicts of Interest

Ethics Officer (or the OIG Ethics Officer for OIG employees) will also be informed.

Violations of Policy

Violation of this policy will be treated as serious misconduct. Notify the Ethics Officer if you have a question or wish to report a potential or actual conflict of interest. Misinterpretation of this policy or lack of knowledge regarding its scope or applicability will not excuse a violation.

Outside Employment and Volunteer Activities of Employees and Officers

In an effort to prevent conflicts or potential conflicts of interest and to ensure that outside commitments do not infringe on any employee's or officer's official LSC duties and responsibilities, an employee paid in Band 3 or above may engage in outside employment or in volunteer activities relating to the provision of legal services only upon written notification to his or her manager and the approval of the

Ethics Officer, or of the OIG Ethics Officer for OIG employees. The Ethics Officer may engage in outside employment or in volunteer activities relating to the provision of legal services subject to the approval of the President. The OIG Ethics Officer may engage in outside employment or in volunteer activities relating to the provision of legal services subject to the approval of the Inspector General. LSC employees paid in Band 2 or below may engage in outside employment or in volunteer activities relating to the provision of legal services only if they notify their manager. Any notifications under this section must include the organization for which the work will be done, the nature of the work, the expected time commitment and remuneration, if any, to be received, as well as an evaluation of any potential conflicts of interest that could arise with LSC as a result of the employee's or officer's engagement in such activity. The manager must consult with the Ethics Officer, or the OIG Ethics Officer for OIG employees, for a determination as to whether a conflict of

interest or potential conflict of interest exists with respect to the outside employment or volunteer activities relating to legal services of an employee paid in Band 2 or below. If a conflict of interest or potential conflict of interest exists, then the employee may engage in such outside employment or activities only upon the approval of the Ethics Officer. Refer to § 5.4 of the LSC Employee Handbook (Outside Employment Policy) for further guidance on outside employment, and § 5.3 (LSC Property and Services) on using LSC assets for personal benefit. OIG employees may be subject to additional requirements or limitations on outside employment or activities.

In accordance with § 1005(a) of the LSC Act, LSC officers may not receive any salary or other compensation for services from any source other than the Corporation, except as authorized by the Board.

Use of LSC Property and Services

Employees, officers, and Directors should not

Conflicts of Interest

use LSC property and services, or allow their use, for personal benefit. LSC property and services may only be used for purposes related to the performance of an employee, officer, or Director's official duties, for limited (de minimis) personal uses, or for emergency situations. Refer to § 5.3 of the Employee Handbook (LSC Property and Services) for further guidance on using property and assets for personal benefit.

Conflict of Interest Questionnaire Employees and Officers

Upon commencement of employment and annually thereafter, all employees and officers must complete a "Conflict of Interest Questionnaire." Employees and officers are required to update the Conflict of Interest Questionnaire promptly whenever there has been a change in the affiliations or responses to questions. Employees and officers must disclose all of their affiliations, as requested by the form, even if there is no current conflict of interest. OIG employees may be subject to a separate or additional conflicts review process.

Directors

In accordance with § 3.05 of the LSC Bylaws and Guidelines on the Annual Disclosure of Outside Interests of the LSC Board of Directors, upon assuming office and annually thereafter, Directors must file a disclosure statement identifying any firm or organization with which he or she is or has been associated within the prior two years and the nature of the association. In the event the association is a result of a financial or ownership interest, that fact must be reflected in the disclosure statement, but the Director need not reveal the amount of financial interest.

Interpretation

This policy cannot describe all conflicts of interests that may arise involving LSC. Employees, officers, and Directors must use good judgment to avoid any conflicts or appearances of impropriety. If you have any questions about this policy or its application, promptly seek advice from the appropriate Ethics Officer.

Recordkeeping

LSC requires honest and accurate recording and reporting of information in order to make responsible business decisions. In the course of their work, employees, officers, and Directors will create or receive LSC records in electronic and hardcopy form, including, but not limited to, e-mails, internal memoranda, voicemail, letters, charts, graphs, visual materials, and reports. Records created or received during the course of LSC business are LSC property and, regardless of their location, do not belong to the individual who created, received, or maintained them. All records of LSC must be kept according to approved retention and disposal procedures, or as prescribed by LSC policy or law.

All of LSC's books, records, accounts, and financial statements must be maintained in reasonable detail, must accurately and appropriately reflect LSC's transactions, and must conform both to applicable legal requirements and to LSC's system of internal controls. It is a violation of this Code to



Recordkeeping

prepare records or reports that are intentionally misleading. It is also a violation of this Code to intentionally omit or delete essential information from any record or report.

Employees, officers, and Directors must exercise prudence in formulating the communications they make while transacting LSC business. They must take care to use appropriate language and behave professionally when communicating with others in connection with the transaction of LSC business, including, but not limited to, their communications via e-mail.

Whenever it appears that records may be required in connection with a pending or reasonably anticipated lawsuit or government investigation, all potentially relevant records in electronic and hardcopy form must be preserved and retained, and ordinary disposal or alteration of any records pertaining to the subject(s) of the pending or reasonably anticipated lawsuit or investigation must be

immediately suspended. If an individual is uncertain as to whether certain records under his or her control must be preserved because they may relate to a pending or reasonably anticipated lawsuit or investigation, he or she must preserve such records and contact LSC's Office of Legal Affairs for further guidance and direction.

Audits and Financial Statements

Employees, officers, and Directors must be responsive and accessible to auditors and will not in any way limit the scope of the auditors' work or restrict their access to LSC records or personnel.

Officers and Directors are responsible for the design and implementation of policies and processes to promote full, fair, accurate, timely, and understandable disclosure of LSC finances in public reports.

Officers and the Inspector General are responsible for reporting to the Board of Directors any significant disagreements between the LSC financial staff and the auditors with respect to accounting principles, methods, or practices, whether or not subsequently resolved.



Protection of LSC Assets

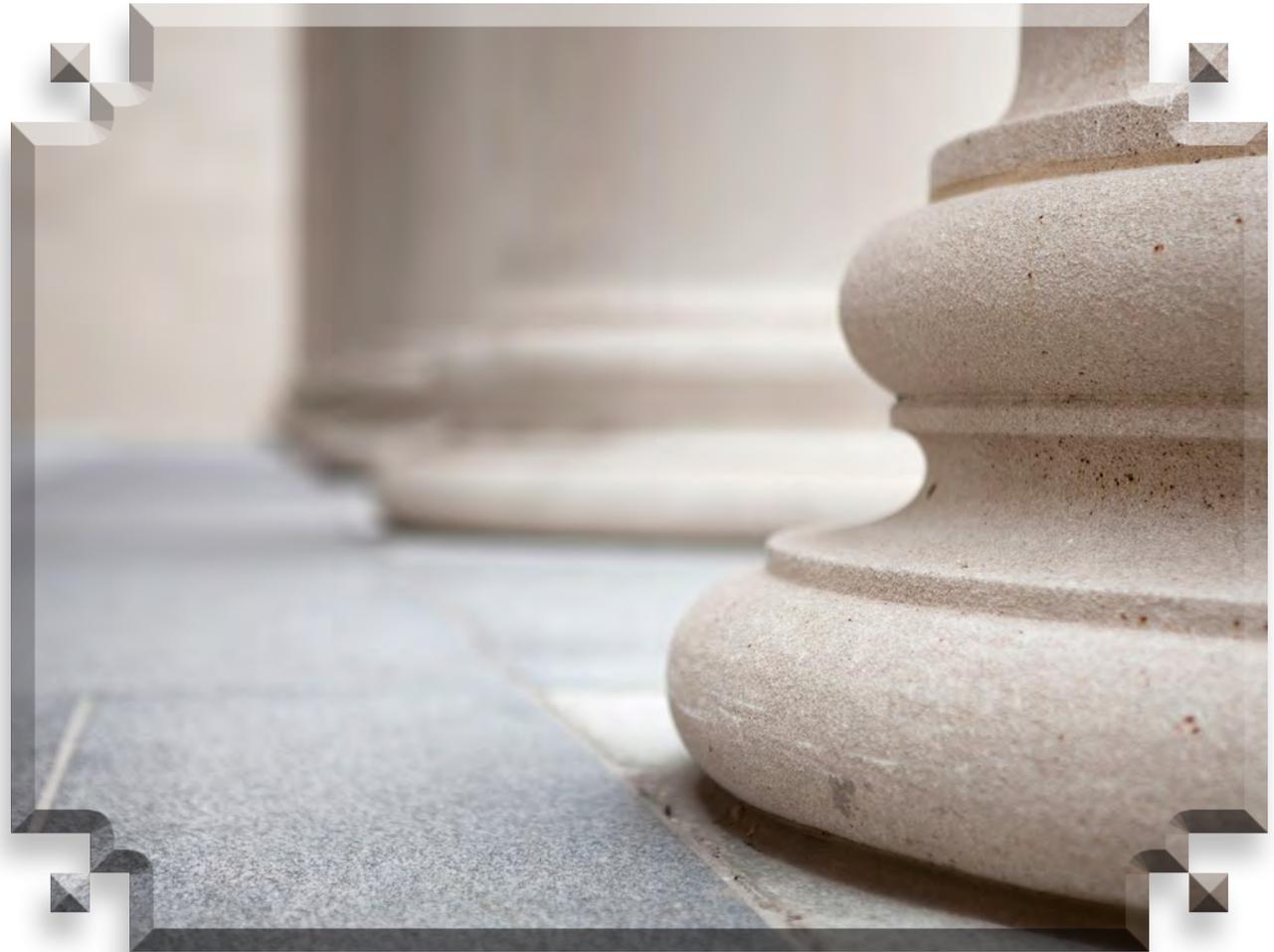
Employees, officers, and Directors have a continuing obligation to protect and conserve all corporate money, property, and other resources, expending them strictly in accordance with LSC policies and procedures. For further information, refer to § 5.3 of the Employee Handbook.



Restricted Political Activities

Employees and officers must comply with certain restrictions on political activity that are imposed by the LSC Act and regulations. Specifically, employees and officers must not intentionally identify LSC with the political activity of any party, association, or candidate. They must comply with the same federal “Hatch Act” restrictions on political activity that apply to state and local officials, which include prohibitions on using official authority (including official titles) to influence elections; advising or coercing a covered employee to contribute to a party, group, or person for political purposes; and running for political office in a partisan election. See 42 U.S.C. § 2996e(e)(2); 5 U.S.C. §§ 1501 et seq. Employees, officers, and Directors may not use any political test or qualification in taking personnel actions or administering grants.

The Office of Legal Affairs and the U.S. Office of Special Counsel are available to provide information and advice concerning Hatch Act restrictions.



Fair Dealing

Each employee, officer, and Director must endeavor to respect the rights of, and deal fairly with, LSC's grantees, applicants, stakeholders, suppliers, consultants, and employees. No one may abuse his or her authority or take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other intentional unfair-dealing practice. Employees, officers, and Directors may not receive gifts or loans in connection with their LSC business dealings. Token gifts may be accepted in accordance with the LSC gift policy in § 11.13 of the Employee Handbook. Anyone found to be soliciting, receiving, accepting, or condoning a bribe, kickback, or other unlawful payment, or attempting to initiate such activities, will be subject to termination and referral to law enforcement authorities for possible criminal proceedings.



Whistleblower Protection

Purpose

The purposes of this policy are to encourage employees, officers, and Directors to report unlawful and unethical activity without fear of retaliation and to provide procedures for reporting and investigating such activity.

Statement of Policy

An employee, officer, or Director who observes, learns of, or in good faith believes it is likely that another employee, officer, or Director, or a director or an employee of an LSC contractor or of a recipient of LSC funding, has engaged in unlawful or unethical activity, must immediately report the actual or suspected activity to the Office of Inspector General (OIG) and cooperate fully in the investigation of the report by the OIG or other authorized law enforcement entities. Reported activities will be reviewed and addressed promptly. LSC will not retaliate against any employee, officer, or Director for reporting or participating in good faith in the investigation of such activity.



Whistleblower Protection

Scope

This policy applies to all LSC employees, officers, and Directors. Employees of the OIG are covered by this policy and included within the term “LSC employees and officers,” except as otherwise indicated. Any reference to “Directors” in this policy includes non-Director members of committees of the Board of Directors.

Examples of Unlawful or Unethical Activities

It is important that LSC be apprised of unlawful or unethical activity, or suspicions thereof, including, but not limited to, any of the following conduct:

- Violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety;

- Fraud;²
- Embezzlement, misappropriation of LSC funds, or use of LSC assets for personal gain or benefit;
- Theft from LSC;
- Supplying false or misleading information on LSC’s financial or other public documents, including its tax return (Form-990);
- Payment by LSC for services or goods that are not rendered or delivered;
- Providing false information to or withholding material information from Congress, the General Accounting Office, LSC’s Board, LSC’s auditors, or the OIG;
- Improper, questionable, or undocumented financial transactions on behalf of LSC;
- Violations of the LSC Code of Ethics and Conduct;
- Improper destruction of LSC records;
- Accepting or seeking anything of value from grantees, contractors, vendors, or people providing goods or services to LSC, with the exception of gifts in accordance with § 11.13 of the LSC Employee Handbook (Gifts, Fees, and Honoraria); or
- Facilitating or concealing any of the above or similar activity.

No Retaliation

LSC will not take, or threaten to take, a prohibited personnel action or otherwise retaliate against any employee, officer, or Director for reporting in good faith what he or she perceives to be unlawful or unethical activity, or suspicions thereof, involving another employee, officer, or Director, including an employee of the OIG, or a director or

² Fraud is a false representation of a material fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives another so that he or she acts, or fails to act, to his or her detriment.

Whistleblower Protection

an employee of an LSC contractor or of a recipient of LSC funding, or for participating in the investigation of such a report. Prohibited personnel action includes, but is not limited to, recommended, threatened, or actual termination, demotion, suspension, or reprimand; involuntary transfer, reassignment, or detail; referral for psychiatric or psychological counseling; or failure to promote or hire or take other favorable personnel action.

If an employee, officer, or Director believes he or she has been subject to any such act of retaliation, he or she must report it immediately to the Inspector General. The OIG will investigate reports of retaliation or refer such reports to LSC management for investigation. Depending on the findings of such investigations, the LSC Board, management, or the Inspector General with respect to employees of the OIG, may impose disciplinary measures, up to and including removal from the Board (subject to § 3.06 of the LSC Bylaws) or termination of employment, against

an employee, officer, or Director who threatens or retaliates against another employee, officer, or Director.

Acting in Good Faith

Anyone reporting unlawful or unethical activity, or suspicions thereof, must act in good faith and have reasonable grounds for believing the information disclosed indicates unlawful or unethical activity. Reports made under this policy will be deemed in good faith if the person reporting had reasonable grounds to believe or suspect that the unlawful or unethical activity occurred, even if that belief or suspicion should prove to be unfounded.

Any allegations by employees, officers, or Directors that prove to be unfounded and which prove to have been made maliciously or knowingly to be false, will be subject to appropriate disciplinary action, up to and including removal from the Board (subject to § 3.06 of the LSC Bylaws) or termination of employment.

Reporting Requirements and Procedures

LSC has an open door policy and encourages employees, officers, and Directors to share their questions, concerns, suggestions or complaints with the OIG, who has the responsibility to investigate all reported complaints.

Any employee, officer, or Director who observes, learns of, or in good faith believes it is likely that another employee, officer, or Director, or a director or an employee of an LSC contractor or of a recipient of LSC funding, has engaged in unlawful or unethical activity must promptly disclose it to the Inspector General or the Assistant Inspector General for Investigations.

The OIG will notify the sender of the report of receipt of the report within five (5) business days. The OIG will review the report to determine whether an investigation is warranted and, if so, whether LSC management (the LSC President, Ethics

Whistleblower Protection

Officer, General Counsel, Vice President for Grants Management, Controller, or Director of the Office of Human Resources), the OIG, or external law enforcement officials should conduct such investigation.

If the OIG conducts such an investigation, it may refer the matter to LSC management, the LSC Board of Directors, or to external law enforcement authorities for follow-up action. If the OIG refers the matter to LSC management for investigation or follow-up action, the OIG may also require that, upon completion of the investigation or follow-up action, LSC management provide the OIG a report concerning the investigation or follow-up action.

In the event an LSC employee or officer (other than an employee of the OIG) who is the subject of an investigatory report or follow-up action wishes to appeal LSC management's report or action, he or she may submit a written appeal to the Chairman of the Board within ten (10) business days of receiving notice

of the report or action by LSC management.

Except as otherwise provided below, where an OIG employee is the subject of an OIG investigation, upon completion of the investigation, the Assistant Inspector General for Investigations will provide a written report to the Inspector General for review and follow-up action, if warranted by the investigation.

Reports Involving the Inspector General or Senior Employees of the OIG

Reports of unlawful or unethical activity regarding the Inspector General must be disclosed to the OIG; they may be made to the Assistant Inspector General for Investigations or to the OIG Ethics Officer. All such reports will be referred by the OIG to the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE Integrity Committee) for review and investigation, if warranted, in accordance with the provisions of §11(d) of the Inspector General Act of 1978, as amended (IG Act), and the

policies and procedures of the CIGIE Integrity Committee promulgated thereunder. Where an investigation is conducted by or under the purview of the CIGIE Integrity Committee, a report, including recommendations of the CIGIE Integrity Committee, will be forwarded to the Board of Directors for resolution. The CIGIE Integrity Committee is also required to provide a summary of the report and recommendations to designated committees of the Senate and House of Representatives. 5 U.S.C. App. § 11(d).

Reports of unlawful or unethical activity involving a senior employee of the OIG (an Assistant Inspector General or other employee who reports directly to the Inspector General) must be disclosed to the Inspector General, who will make a determination as to referral and investigation of the allegation(s) in accordance with the provisions of § 11(d) of the IG Act and the policies and procedures of the CIGIE Integrity Committee.

Whistleblower Protection

Confidentiality

Reports of unlawful or unethical activity, or suspicions thereof, may be submitted on a confidential basis. LSC will maintain confidentiality to the extent possible. Identity or other information will be disclosed only as reasonably necessary for purposes of this policy or when legally required.

Anonymous Reporting

Reports of unlawful or unethical activity, or suspicions thereof, may be made anonymously to the OIG or by completing an online form.³ Because the OIG, or designated investigator, will be unable to interview anonymous whistleblowers, it is important that anonymous whistleblowers provide as much specific detail in the report as possible, including, but not limited to, names of individuals involved and potential witnesses, to allow for an investigation of the report.

Records of Report

The OIG must retain for a period of at least seven (7) years all records relating to any reports of unlawful or unethical activity reported in accordance with this policy.

Interpretation

If you have any questions about this policy or its application, please promptly seek advice from the OIG.

³ In addition, the OIG maintains a hotline to receive reports of suspected fraud, waste, or abuse. More information for the OIG Hotline is available at <http://www.oig.lsc.gov/org/hotline.htm>. Reports to the OIG Hotline can be made via: Phone: 1-800-678-8868 or 202-295-1670 • Email: hotline@oig.lsc.gov • Online: Form is available at http://www.oig.lsc.gov/hotline_form/hotline.aspx • Fax: 202-337-7155 • Mail: PO Box 3699, Washington DC 20027-0199

Equal Employment Opportunity

Purpose

LSC is committed to providing equal employment opportunity in all of its employment programs and decisions. Discrimination in employment on the basis of any characteristic protected under federal, state, or local law is illegal and is a violation of LSC's policy. The purposes of this policy are to prohibit and prevent discrimination and harassment in the workplace, encourage employees, officers, and Directors to report instances of alleged discrimination and harassment without fear of retaliation, and to provide procedures for reporting and investigating such activity.

Scope

This policy applies to all LSC employees, officers, Directors and third parties over whom LSC has control. Employees of the Office of Inspector General (OIG) are covered by this policy and included within the term "LSC employees and officers," except as otherwise indicated. Any reference to "Directors" in this



Equal Employment Opportunity

policy includes non-Director members of committees of the Board of Directors. This policy applies to all terms and conditions of employment, appointment or contracting, including, but not limited to, recruiting, hiring, firing, transferring, promoting and demoting, evaluating, disciplining, scheduling, training, or deciding compensation and benefits.

Statement of Policy

Equal employment opportunity is provided to all employees and applicants for employment without regard to race, color, sex, age, religion, national origin, sexual orientation, personal appearance, political affiliation, pregnancy, genetic information, gender identity or transgender status, status as a victim of an intrafamily offense, domestic partner or familial status, marital status, matriculation, family responsibilities, source of income, place of residence or business, veteran status or active military service, or disability, or any other factor protected by local, state, or federal law (collectively “protected traits”).

In accordance with applicable federal, state, and local laws protecting qualified individuals with disabilities, LSC will attempt to reasonably accommodate those individuals unless doing so would create undue hardship for LSC or if, with reasonable accommodation, the employee is unable to perform the essential functions of his or her position without posing a direct threat to the health or safety of the employee or other individuals in the workplace. Any applicant or employee who needs a reasonable accommodation to apply for employment or to perform the essential functions of his or her job should contact the Director of the Office of Human Resources (HR Director).

LSC is committed to providing a diverse and inclusive work environment free of discrimination and harassment, including sexual harassment. LSC strictly prohibits and does not tolerate discrimination and harassment by anyone regardless of the sex of the individuals involved. This policy

applies to all discrimination and harassment, regardless of whether it is verbal, non-verbal, or physical, on the basis of a protected trait. Discrimination and harassment are prohibited in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and LSC-sponsored events.

An employee, officer, or Director who believes that he or she has been subjected to, or witnesses or becomes aware of, behavior that may violate this policy should promptly report the conduct in accordance with the procedures provided under § 5 (Reporting Requirements and Procedures). LSC will not retaliate nor tolerate retaliation against any individual who, in good faith, reports or participates in the investigation of potential violations of this policy. LSC will take reasonable and appropriate remedial action to address violations of this policy, up to and including termination.

Equal Employment Opportunity

Definitions

COMPLAINANT: An individual who has alleged a violation(s) of this policy.

DISCRIMINATION: For the purposes of this policy, adverse treatment of an individual based on any protected trait(s) under applicable federal, state, or local law, rather than on the basis of his or her individual merit, with respect to the terms, conditions, or privileges of employment, appointment or contracting including, but not limited to, recruiting, hiring, firing, transferring, promoting and demoting, evaluating, disciplining, scheduling, training, or deciding compensation and benefits.

GENDER IDENTITY OR EXPRESSION: A gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's assigned sex at birth.

GENETIC INFORMATION: Information about the presence of any gene, chromosome, protein, or certain metabolites that indicate or confirm

that an individual or an individual's family member has a mutation or other genotype that is scientifically or medically believed to cause a disease, disorder, or syndrome, if the information is obtained from a genetic test.

HARASSMENT: For the purposes of this policy, any unwelcome verbal, non-verbal, or physical conduct that has the purpose or effect of unreasonably interfering with an individual's work performance and/or creating an intimidating, hostile, or offensive work environment as a result of an individual's protected trait(s) under applicable federal, state, or local law. Examples of harassment include, but are not limited to:

- **VERBAL** – Epithets, negative or derogatory statements, threats, slurs, comments, stereotyping, or jokes regarding a person's protected trait(s).
- **NON-VERBAL** – Inappropriate gestures, distribution or display of any written or

graphic materials, including calendars photographs, posters, cartoons, or drawings that ridicule, denigrate, insult, belittle, or show hostility or aversion toward an individual or group because of their protected trait(s).

- **PHYSICAL** – Assault, unwanted or inappropriate physical contact, including, but not limited to, pushing, slapping, poking, punching, shoving, blocking normal movement, or purposely bumping into an individual.

MARITAL STATUS: The state of being married or in a domestic partnership, divorced or separated (as such statuses are determined by applicable law), or the state of being single or widowed, and the usual conditions associated therewith, including pregnancy or parenthood.

PERSONAL APPEARANCE: The outward appearance of any person, irrespective of sex, with regard to bodily condition or

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characteristics, manner or style of dress, and manner or style of personal grooming, including, but not limited to, hair style and beards. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed standards, when uniformly applied for admittance to a public accommodation, or when uniformly applied to a class of employees for a reasonable business purpose; or when such bodily conditions or characteristics, style or manner of dress or personal grooming presents a danger to the health, welfare, or safety of any individual.

RESPONDENT: An individual alleged to have violated this policy.

SEXUAL HARASSMENT: For the purposes of this policy, any harassment based on an individual's sex or gender. It includes harassment that is not sexual in nature (for example, offensive remarks about an individual's sex or gender), as well as any unwelcome sexual advances, requests for

sexual favors, or any other conduct of a sexual nature, when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as a basis for an employment decision or an adverse action; or
- Such conduct has the purpose or effect of substantially or unreasonably interfering with an employee's work performance by creating an intimidating, hostile, or offensive work environment.

Sexual harassment applies to males sexually harassing females or other males, and to females who sexually harass males or other females.

Examples of sexual harassment include, but are not limited to:

- **VERBAL** – Epithets, derogatory statements, sexually degrading words to describe an individual, slurs, threats, sexually-related or suggestive comments or jokes; unwelcome sexual advances, propositions, suggestions, movement, or physical action; requests for any type of sexual favors; sexual innuendoes; lewd remarks; gossip regarding an individual's sex life; comments on an individual's body or dress; comments about an individual's sexual activity, deficiencies, or prowess; inquiring into an individual's sexual experiences; or discussion of one's sexual activities.
- **NON-VERBAL** – Distribution or display of any written or graphic material, including calendars, posters, cartoons, or drawings that are sexually suggestive, or that show hostility toward an individual or group because of sex; suggestive or insulting gestures, sounds, leering, staring, and whistling; obscene gestures or content in letters, notes, facsimiles, and e-mail; or

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knowingly playing music or visual media with lyrics or dialogue of a sexual or offensive nature.

- **PHYSICAL** – Unwelcome, unwanted physical contact, including, but not limited to, touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling or sexual assault.

Other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work environment that is hostile, offensive, or intimidating may also constitute sexual harassment.

Reporting Requirements and Procedures

Complaints by LSC Employees, Officers, and Directors (including Employees of the OIG)

Any employee, officer, or Director (including employees of the OIG) who believes he or she has been subjected to discrimination or

harassment prohibited by this policy, or who witnesses or becomes aware of alleged discrimination or harassing conduct, except as provided for under § 5.B. (Complaints Against OIG Officers and Employees), should promptly report, orally or in writing, the conduct to his or her manager, the General Counsel, the Vice President for Grants Management or the HR Director. If the report is made to anyone other than the HR Director, the person receiving the report must promptly communicate the report to the HR Director. The HR Director will consult with the appropriate manager(s) to ensure that immediate action is taken to stop any potential policy violations and prevent further potential policy violations while the allegations are being investigated.

The HR Director, independently or through her or his designated agent, will conduct a prompt, thorough, and impartial investigation of all complaints (and may, in her or his discretion, engage external investigators to conduct an investigation of a report). The HR Director or

designated investigator will consult with the complainant and respondent and interview all relevant identified witnesses or other parties. LSC expects all officers and employees to fully cooperate with any investigation conducted. The HR Director or designated investigator will conclude the investigation expeditiously and prepare a written summary of her or his findings and, if it is determined that a policy violation has occurred, the HR Director will prepare recommendations as to corrective action(s), commensurate with the severity of the offense, up to and including termination. If the HR Director's investigation is inconclusive or it is determined that there has been no policy violation, but some potentially problematic conduct is revealed, recommendations may be made for preventative or ameliorative action.

After the investigation is concluded, the HR Director will promptly meet with the complainant and respondent separately to notify them of the findings of the investigation and the action being recommended. In the event the complainant

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or the respondent wishes to appeal the HR Director's findings or recommendations, he or she may submit a written appeal to the President within ten (10) business days after meeting with the HR Director.

If the alleged discriminatory or harassing conduct involves the HR Director, the complainant should promptly report the conduct to the Ethics Officer. The Ethics Officer will conduct a prompt, thorough, and impartial investigation of a report and will render a written summary of his or her findings and, if it is determined that a policy violation has occurred, recommend corrective action(s) to be taken.

If the alleged discriminatory or harassing conduct involves the LSC President or a Director, the HR Director will conduct a prompt, thorough, and impartial investigation of the complaint and will render a written summary of her or his findings and, if it is determined that a policy violation has occurred, recommend corrective action(s) to be taken to the Board. The

LSC President, a Director, or the complainant may submit a written appeal to the Board of Directors within ten (10) business days of receiving the HR Director's written decision. The Chairman of the Board will promptly refer the appeal to the Governance and Performance Review Committee for a recommendation regarding the Board's action. The Committee will review the appeal and make a recommendation to the Board. The Board will then consider and act on the recommendation. Consistent with the provisions of the LSC Act, 42 U.S.C. § 2996c(g), and 45 C.F.R. Part 1622, consideration and action by the Committee and Board regarding an appeal may be held in closed session. The Chairman of the Board will notify the HR Director of the Board's decision and any action taken for purposes of record-keeping.

Complaints Against OIG Employees and Officers

Any employee, officer, or Director who believes he or she has been subjected to discrimination or harassment by an employee or officer of the

OIG prohibited by this policy, or who witnesses or becomes aware of alleged discrimination or harassing conduct by an employee or officer of the OIG, should promptly report, orally or in writing, the conduct to his or her manager, the General Counsel, the Vice President for Grants Management, the HR Director, or the Inspector General. If the report is made to anyone other than the Inspector General, the person receiving the report will promptly communicate the report to the Inspector General. The Inspector General will take immediate action to stop any potential policy violations and prevent further potential policy violations while the allegations are being investigated.

The Inspector General or his or her designee will fully investigate all complaints (and may, in his or her discretion, engage external investigators to conduct an investigation of a report). The Inspector General or designated investigator will consult with the complainant and respondent and interview all relevant identified witnesses or other parties. The Inspector

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General will conclude the investigation expeditiously and prepare a written summary of his or her findings and, if it is determined that a policy violation has occurred, the Inspector General will determine the corrective action(s) to be taken. If the Inspector General's investigation is inconclusive or it is determined that there has been no policy violation, but some potentially problematic conduct is revealed, preventative or ameliorative action may be taken. After the investigation is concluded, the Inspector General or his or her designee will meet with the complainant and respondent separately to notify them of the findings of the investigation and the action being recommended.

If the alleged discriminatory or harassing conduct involves the Inspector General the complainant or LSC official to whom a complainant has made an initial report must promptly report, orally or in writing, the conduct to the Assistant Inspector General for Investigations or the OIG Ethics Officer. All such reports will be referred to the Integrity Committee of the

Council of the Inspectors General on Integrity and Efficiency (CIGIE Integrity Committee) for review and investigation, if warranted, in accordance with the provisions of § 11(d) of the Inspector General Act of 1978, as amended (IG Act), and the policies and procedures of the CIGIE Integrity Committee promulgated thereunder. Where an investigation is conducted by or under the purview of the Integrity Committee, a report, including recommendations of the CIGIE Integrity Committee, will be forwarded to the Board of Directors for resolution. The CIGIE Integrity Committee is also required to provide a summary of the report and recommendations to designated committees of the Senate and House of Representatives. 5 U.S.C. App. § 11(d).

If the alleged discriminatory or harassing conduct involves a senior employee of the OIG (e.g., an Assistant Inspector General or other employee who reports directly to the Inspector General), the Inspector General will make a determination as to referral and investigation

of the allegation(s) in accordance with the provisions of § 11(d) of the IG Act and the policies and procedures of the CIGIE Integrity Committee.

Complaints Against Employees, Officers or Governing Body Members of Recipients

Any employee, officer, or Director (including employees of the OIG) who believes he or she has been subjected to discrimination or harassment prohibited by this policy by an employee, an officer, or a member of the governing body of a recipient of LSC funds, or who witnesses or becomes aware of alleged discrimination or harassing conduct, should promptly report, orally or in writing, the conduct to his or her manager, the General Counsel, the Vice President for Grants Management or the HR Director. If the report is made to anyone other than the HR Director, the person receiving the report must promptly communicate the report to the HR Director.

Equal Employment Opportunity

The HR Director will promptly communicate the report to the Executive Director of the recipient or, if the report involves the Executive Director, to the chair of the recipient's governing board. The HR Director will request that the recipient promptly investigate the report, consistent with the recipient's Equal Opportunity and Sexual Harassment Policy required under LSC's Grant Assurances. The HR Director will request the recipient to prepare a written summary of the recipient's findings and any follow-up actions the recipient has taken or proposes to take. LSC reserves the right to take further action, including conducting its own investigation, following receipt of the recipient's report.

Confidentiality

Reports of alleged discrimination and harassment may be submitted on a confidential basis. LSC will maintain confidentiality to the extent possible, consistent with a thorough investigation. Information received and the privacy of the individuals involved will be disclosed only as reasonably necessary for purposes of this

policy or when legally required; however, confidentiality is not guaranteed.

No Retaliation

LSC prohibits retaliation against individuals who report or allege violations of this policy, or who are involved in the investigation of potential policy violations. An individual who makes a good faith report of what he or she believes to be violations of this policy; participates in the investigation of potential violations of this policy; or files, testifies, assists, or participates in any manner in any investigation, proceeding, or hearing conducted by a governmental enforcement agency, will not be subject to reprisal or retaliation, including, but not limited to, termination, demotion, suspension, failure to hire or consider for hire, failure to give equal consideration in making employment decisions, failure to make employment recommendations impartially, adversely affecting working conditions or otherwise denying any employment benefit. Any person found to have retaliated against an individual for reporting a

violation of this policy or for participating in an investigation of allegations of such conduct will be subject to appropriate disciplinary action, up to and including termination.

Contact the HR Director if you have any questions or concerns regarding this policy or if you believe this policy may have been violated.



LSC Code of Ethics and Conduct Acknowledgment Form

I hereby acknowledge that I have reviewed and understand the Legal Services Corporation's Code of Ethics and Conduct (Code). I agree to comply with the standards contained in the Code and all related policies and procedures as is required as part of my continued employment or association with LSC. I understand that LSC does not intend for the Code to create a contract of employment or any type of binding obligation on LSC. I further understand that any violation of the Code or failure to take action as mandated by the Code may result in disciplinary action, up to and including termination of employment.

LSC may periodically review the Code and it reserves the right to amend or interpret the Code as it deems appropriate in its sole discretion. A copy of this acknowledgment form will be placed in my personnel file.

Printed Name: _____

Title: _____

Office: _____

Signature: _____

Date: _____





Design Marcos A. Navarro

LSC Print Shop Moe Wilson, Bobby Harris, and Sharon Parks



Legal Services Corporation ■ **Code of Ethics and Conduct**

DRAFT COPY



BOARD OF DIRECTORS

RESOLUTION

ADOPTING A REVISED LSC CODE OF ETHICS AND CONDUCT

WHEREAS, by Resolution #2008-007, the Legal Services Corporation (“LSC” or “Corporation”) Board of Directors (“Board”) adopted a *Code of Ethics and Conduct* (“the Code”) to provide guidance to Board members, officers, and employees regarding the Corporation’s expectations for standards of ethics and conduct;

WHEREAS, the Board has recently amended several policies in the Code, including the Conflicts of Interest, Whistleblower, and Equal Employment Opportunity policies; and

WHEREAS, in the process of replacing the Conflicts of Interest, Whistleblower, and Equal Employment Opportunity policies with the Board-amended versions, Management determined that the Corporation would benefit from a reformatted Code that more effectively communicates, both internally and externally, LSC’s commitment to the highest levels of ethics and conduct, and recommends adoption of the attached revised LSC Code of Ethics and Conduct;

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Directors adopts the attached revised *LSC Code of Ethics and Conduct* effective immediately.

Adopted by the Board of Directors

On January 24, 2015

John G. Levi

Chairman

Attest:

Ronald S. Flagg

Vice President for Legal Affairs,

General Counsel & Corporate Secretary

Management Transition Resources

List of Resources for LSC Management Transitions

History of LSC

The Founding of LSC
CLASP article – Civil Legal Aid in the US
Fordham Urban Law Journal Article on LSC

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Strategic Plan 2012-2016
FY 2015 Budget Request

Congress

Overview of Congressional Appropriations and Oversight
Annual appropriations and budget timeline

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- 2014 Appropriation Act
- LSC Regulations
- IG Act
- Property Acquisition and Management Manual

Overview of LSC's Entity Status

- 2007 & 2010 GAO Reports

LSC FOIA Policy Memo
Compilation of Important OLA Opinions
2012 Compilation of LSC Policies

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Count
Departmental Descriptions
Fiscal Oversight Task Force Report

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Annual Departmental Goals
LSC Project Management Calendar

Grants Management

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- TIG (list of awards and notable projects, and TIG Conference Program)
- Pro Bono Innovation Fund (list of awards, notable projects, and Pro Bono Task Force Report)
- Competition and Grantee Oversight Flow Chart
- Grant cycle timelines
- 2015 Grant Assurances (Basic Field, TIG, PBIF)
- 2015 Special Grant Conditions
- OIG Semi-Annual Report to Congress
- LSC Performance Criteria
- Oversight visit schedule
- Sample oversight visit reports (OCE/OPP)
- Examples of management decisions in questioned cost proceedings
- OCE/OPP quarterly activity reports
- Reports to Audit Committee on Audits and Investigations

Fiscal Management

- Current Operating Budgets (Corporation-wide and Departmental)
- Guidelines for Consolidated Operating Budgets
- Last Audited Financial Statements
- Last Annual Report
- Last Income Statement
- Sample management memos to Finance Committee
- Overview of annual audit process
- Quarterly contracting reports

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- Who's Who at LSC
- Staff Directory and Key Staff Contact Information
- Travel and Expenses Guidelines
- Employee Handbook
- LSC Administrative Manual
- Performance Management System Overview
- Code of Ethics and Conduct
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- Local 135 Bargaining Unit descriptions
- Memo on Political Activities
- Hatch Act Guidance

Board

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List of board members with terms and biographies
Board Committee Charters
List of board committee assignments
List of board meeting locations
Copy of most recent Board Book
Government in the Sunshine Act Memo

Development

Board resolution initiating the campaign
LSC Case Study
40th Anniversary Schedule of Events
Solicitation and Contribution Protocols

LSC Grantees

LSC by the Numbers
Fact Sheet – LSC Restrictions
CRS Report on LSC Restrictions
Overview of Grantee Audit Process/IPAs

Audit Committee

Agenda

AUDIT COMMITTEE

January 22, 2015

Agenda

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting of October 6, 2014 meeting
3. Discussion of Committee's evaluations for 2014 and the Committee's goals for 2015
4. Presentation of the Fiscal Year (FY) 2014 Annual Financial Audit
 - John Seeba, Assistant IG for Audits
 - Nancy Davis, WithumSmith+Brown
5. Review of LSC's Form 990 for FY 2014
 - David Richardson
6. Briefing by Office of Inspector General
 - Jeffrey Schanz, Inspector General
7. Management update regarding risk management
 - Ron Flagg, General Counsel
8. Briefing about referrals by the Office of Inspector General to the Office of Compliance and Enforcement's including matters from the annual Independent Public Accountants audits of grantees
 - Jeffrey Schanz, Inspector General
 - John Seeba, Assistant IG for Audits

- Lora Rath, Director of Compliance and Enforcement
9. Consider and act on 403(b) Thrift Plan Amendment, ***Resolution 2015-XXX***
 - Mark Freedman, Senior Assistant General Counsel
 - Sophia Mason, Benefits Manager
 10. Public comment
 11. Consider and act on other business

Closed Session

12. Communication by Corporate Auditor with those charged with governance under Statement on Auditing Standard 114
 - Jeffrey Schanz, Inspector General
 - John Seeba, Assistant Inspector General for Audits
 - Nancy Davis, WithumSmith+Brown
13. Approval of minutes of the Committee's Closed Session meeting on July 21, 2014
14. Briefing by Office Compliance and Enforcement on active enforcement matters and follow-up on open investigation referrals from the Office of Inspector General
 - Lora Rath, Director of Compliance and Enforcement
15. Consider and act on adjournment of meeting

**Draft Minutes of the October 6, 2014
Open Session Meeting**

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

Open Session

Monday, October 6, 2014

DRAFT

Chairman Victor B. Maddox convened an open session meeting of the Legal Services Corporation's ("LSC") Audit Committee ("the Committee") at 7:51 a.m. on Monday, October 6, 2014. The meeting was held at the Hilton Albany, 40 Lodge Street, Albany, New York 12207.

The following Committee members were in attendance:

Victor B. Maddox, Chairman
Harry J. F. Korrell, III
Gloria Valencia-Weber
David Hoffman, Non-Director Member (by telephone)
Paul L. Snyder, Non-Director Member (by telephone)
John G. Levi, ex officio

Other Board members present:

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

Also in attendance were:

| | |
|---------------------|--------------------------------------------------------------------------------------------------|
| James Sandman | President |
| Lynn Jennings | Vice President for Grants Management |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel & Corporate Secretary |
| David L. Richardson | Treasurer and Comptroller, Office of Financial and Administrative Services |
| Wendy Rhein | Chief Development Officer |
| Julia Kramer | Program Counsel, Office of Compliance and Enforcement (OCE), Executive Office |
| Jeffrey E. Schanz | Inspector General |
| David Maddox | Assistant Inspector General for Management and Evaluation, Office of the Inspector General (OIG) |

| | |
|---------------------|-------------------------------------------------------------------------------------------|
| Laurie Tarantowicz | Assistant Inspector General and Legal Counsel, Office of the Inspector General (OIG) |
| John Seeba | Assistant Inspector General for Audit, Office of the Inspector General (OIG) |
| Carol Bergman | Director, Office of Government Relations and Public Affairs (GRPA) |
| Carl Rauscher | Director of Media Relations, Office of Government Relations and Public Affairs (GRPA) |
| Wendy Long | Executive Assistant, Office of Government Relations and Public Affairs (GRPA) |
| Janet LaBella | Director, Office of Program Performance (OPP) |
| Lora M. Rath | Director, Office of Compliance and Enforcement (OCE) |
| Bernie Brady | LSC Travel Coordinator |
| Herbert Garten | Non-Director Member, LSC's Institutional Advancement Committee |
| C. Kenneth Perri | Executive Director, Legal Assistance of Western New York |
| Paul J. Lupia | Executive Director, Legal Aid Society of Mid-New York |
| Barbara Finkelstein | Executive Director, Legal Services of the Hudson Valley |
| Lisa Wood | American Bar association Standing Committee on Legal Aid and Indigent Defendants (SCLAID) |
| Robin C. Murphy | National Legal Aid and Defender Association (NLADA) |

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

Committee Chairman Maddox called the meeting to order.

MOTION

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

VOTE

The motion was approved by voice vote.

MOTION

Professor Valencia-Weber moved to approve the minutes of the Committee's meeting of July 21, 2014. Mr. Korrell seconded the motion.

VOTE

The motion passed by voice vote.

Mr. Schanz briefed the Committee on the reports the Office of the Inspector General (OIG) completed since the last Audit Committee meeting. The reports include an update on the Council of Inspectors General for Integrity and Efficiency's (CIGIE) memorandum to Congress supporting the Department of Justice supporting increased access to records. Mr. Seeba briefed the Committee on OIG's audit processes. Mr. Schanz and Mr. Seeba answered Committee members' questions.

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

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

Committee Chairman Maddox invited public comment and received none.

There was no new business to consider.

MOTION

Professor Valencia-Weber moved to adjourn meeting. Mr. Korrell seconded the motion.

VOTE

The motion passed by voice vote.

The Committee meeting adjourned at 9:23 a.m.

2014 Committee Evaluation and 2015 Goals

SUMMARY OF 2014 AUDIT COMMITTEE EVALUATION RESPONSES

All members strongly agreed that:

- Committee members understand the goals and purpose of our committee; committee members agree on the goals and purpose of the committee.
- There is alignment between our committee's goals and purposes and the actions taken and/or the decisions made by the committee.
- Our committee has adequate resources (for example, staff time and expertise) to support its function.
- We receive the meeting agenda and materials sufficiently in advance of the meeting to allow for appropriate review and preparation.
- The minutes of our meetings are accurate and reflect the discussion, next steps and/or action items articulated by the members.
- Our committee membership represents the talents and skills required to fulfill the goals and purposes of the committee. Our committee members come to meetings prepared and ready to contribute.
- Our committee members treat each other with respect and courtesy.
- As a general rule, when I speak I feel listened to and that my comments are valued.

Members either strongly agreed or agreed that:

- There is alignment between our committee's goals and purposes and the goals of LSC's Strategic Plan.
- Our committee has responded effectively and appropriately to issues of immediate concern brought before it; our committee has made significant progress on long-term strategic issues related to its goals and purposes.
- Our committee meetings are held regularly and with appropriate frequency.
- The length of our committee meetings is appropriate and respectful of the agenda. We consistently use our meeting time well; issues get the time and attention proportionate to their importance.

The following are direct quotes:

Members liked:

- Our non-board members provide invaluable input.
- Well run meetings, significance of the issues presented .
- Generally focused.
- We have in depth discussion of issues that are of importance to LSC.

Ideas for Improvement:

- Chairman needs to run meetings more efficiently.
- Amount of time available for substantive discussions; see comments above

- On some technical matters, perhaps more time to discuss.
- Allow more time for the agenda.
- At times our meetings seem constrained by time limits imposed by the schedule. If we spent a little less time in quarterly meetings in hearings and panel discussions (especially on topics about which we have been fully briefed in the past), we could have more time for committee business. It might also help to set time limits in advance of certain testimony to the committee.

Future Focus:

- Better coordination between OIG and Committee, and between OIG and OCE to ensure that grantee issues are addressed promptly.
- Discussion of progress toward goals in strategic plan.
- Aligning our tasks with the strategic plan for full accountability.
- 1)Acceleration of LSC's process to conclude on matters raised by the IG; and 2) Continue to enhance the relationship with the IG.

Office of the Inspector General
Peer Review

Implementation Status of Peer Review Findings, Recommendations and Corrective Actions

| Finding | Recommendations | Corrective Actions | Expected Completion Date | Date Completed |
|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------------------------------------------------|
| 1. Reports included Unsupported Statements about Assessing the Reliability of Computer-Processed Data | 1. LSC OIG should train its staff on assessing the reliability of computer-processed data. | Conduct training with the staff to ensure that computer processed data is properly analyzed and documented to support conclusions about that data. | 12/31/14 | Complete: Director of Audit Operations conducted training on 12/18/14. |
| | 2. LSC OIG should implement sufficient controls so its personnel respond to questions about reliability of computer processed data on the Auditing Standards Certification and Quality Control Checklist and index those responses to the workpapers. | LSC OIG AIC's and Team Leaders will be instructed to perform reviews to ensure that responses are complete and adequately supported on the reliability of computer processed data. Managers will be tasked to ensure that the work performed is properly annotated on the Auditing Standards Certification and Quality Control Checklist and properly indexed to the work papers. This process will be emphasized during the training and by the Quality Assurance Reviewers. | 12/31/14 | Instructions to team leader and AIC's sent 9/9/14. Action complete. |
| | 3. LSC OIG should implement appropriate controls for cross-indexing statements to supporting work papers and ensuring those statements are independently referenced before issuing a report. | As part of the indexing and referencing training that will be conducted by 12/31/14, emphasis will be placed on ensuring that all statements will be properly supported any information or statements in the report that are not indexed and referenced will be brought to the attention of the AIGA for resolution. | 12/31/14 | Instructions to team leader and AIC's 9/9/14 |
| | 4. LSC OIG should assess the need to notify users of the affected reports concerning whether there is insufficient evidence to support reported findings and conclusions. | Review work papers and determine whether the findings were supported. | 12/31/14 | 9/30/14. Complete |

| Finding | Recommendations | Corrective Actions | Expected Completion Date | Date Completed |
|--------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. No summary of Annual Quality Monitoring Activities | 5. LSC OIG should implement sufficient controls to prioritize its quality monitoring program such that it complies with ongoing monitoring and an annual summary of those quality activities per <i>Standards</i> . | LSC OIG's Director of Audit Operations will be assigned to specifically perform semiannual reviews of work papers and develop an annual summary to identify potential problems areas to ensure that the quality control program is operating as intended. LSC OIG will set up a schedule to ensure the reviews are completed timely. | 12/31/14 | Complete: Chapter 2, Quality Assurance Monitoring of <i>Audit Manual, Volume 2, Audit Procedures</i> , updated and revised as of 12/18/14. It includes a schedule for semi-annual quality monitoring reviews and semi-annual reporting. Semi-annual quality assurance monitoring review completed 12/5/14 and report issued to AIGA and IG on 12/30/14. |
| 3. NO IPA Monitoring Work Papers | 6. LSC OIG should ensure those responsible for IPA monitoring document their oversight in the work paper system of record and require supervisory review of work papers supporting the monitoring throughout the oversight period. | The AIGA will ensure that work papers are properly prepared in TeamMate and that adequate supervisory review takes place. LSC OIG will build an annual quality control review to ensure that the work is done properly, documented, and the work papers are safeguarded. | 12/31/14 | Complete: Chapter 2, Quality Assurance Monitoring of <i>Audit Manual, Volume 2, Audit Procedures</i> , updated and revised as of 12/18/14. Semi-annual quality assurance monitoring review, including IPA monitoring project, completed 12/5/14 and report issued to AIGA and IG on 12/30/14. |
| | 7. LSC OIG should perform procedures to assure itself that the IPA work | LSC OIG will perform the necessary reviews from available information to | 12/31/14 | 9/30/14. Complete |

| Finding | Recommendations | Corrective Actions | Expected Completion Date | Date Completed |
|-------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | performed for the 2013 financial statement audit was in compliance with Standards. | ensure that the IPA work was done in accordance with Standards. | | |
| LOC – 1. Policies and Procedures were Insufficiently Documented, Outdated, or Incomplete | 1. If LSC OIG expects to continue performing attestations engagements, it should document its policies and procedures for such engagements. | Update the policies manual. | 12/31/14 | Complete: Added Chapter 7, Attestation Engagements, to <i>Audit Manual, Volume 2, Audit Procedures</i> as of 12/18/14. |
| | 2. LSC OIG should document its process for referring matters to its Office of Investigations as well as procedures for electronically documenting independent reference reviews in Teammate. | Update the policies manual | 12/31/14 | Complete: Added section 4.06g, Referrals to Investigations, to <i>Audit Manual, Volume 2, Audit Procedures</i> as of 12/18/14. |
| | 3. LSC OIG should ensure it includes the updated version of its Auditing Standards Certification and Quality Control Checklist (Form A-2) in its procedures manual. | Update the policies manual. | 12/31/14 | Complete: Auditing Standards Certification and Quality Control Checklist, Form A-2, was revised in December 2014 and the revised version added to procedures manual as of 12/18/14. |
| LOC – 2 . Inconsistent Application of Quality Processes | 4. LSC OIG should implement sufficient controls to ensure personnel complete all steps on key audit quality forms, as well as including support for the Team’s responses. Further, LSC OIG should implement | Conduct training on independent referencing. | 12/31/14 | Complete: Director of Audit Operations conducted training on 12/18/14. |

| Finding | Recommendations | Corrective Actions | Expected Completion Date | Date Completed |
|-----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | controls so that these forms are signed by a reviewer only when all steps are complete. | | | |
| | 5. LSC OIG should implement sufficient controls over independent referencers completing and signing the Independence Declaration of Auditor. LSC OIG should also put in place controls so that independent referencing quality forms are signed prior to issuance of the final report. | Conduct training on independent referencing. | 12/31/14 | Complete: Director of Audit Operations conducted training on 12/18/14. |
| LOC – 3. Certain Employees Did Not Meet CPE Requirements | 6. LSC OIG should implement controls to ensure that each employee conducting audit work meets Standards' continuing professional education requirements | LSC will institute a quarterly report to ensure that all CPE's are planned and completed within the required time period. The Director of Audit Operations will also check on a semi-annual basis and inform the AIGA of any forecasted shortages. | 12/31/14 | Complete: As of 9/30/14, Audit Services Manager reports quarterly to audit division Directors and Assistant Inspector General for Audit regarding planned and completed CPEs. On 12/30/14, Director of Audit Operations reviewed CPE tracking for FY 14 and will continue to monitor on a semi-annual basis. |

Risk Management Matrix

| RISK TO LSC RESOURCES – PEOPLE | | | | | | | |
|---------------------------------------------------------------------|--------------------|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|-------------------------------------------------|-----------------------------------------|-----------------------------|
| Risks | | | Strategies | Who is responsible? | | Last report to Board¹ | Next report to Board |
| | Probability | Severity | | Management | Board | | |
| Board Leadership and Governance -- Potential for problems | L | H | <ul style="list-style-type: none"> • Good information flow from management (including legal, financial, programmatic information) and from the OIG and outside auditors • Training of board • Orientation of new board • Evaluations/self-assessments • Sufficient staff support • Staying abreast of best board governance practices • Staying abreast of stakeholder and client concerns • Periodic review of governing documents to assure compliance and relevancy | | Board, Chairman, Gov. & Performance Review Com. | | |
| -- Board Transitions | M | M | <ul style="list-style-type: none"> • Board transition plan • Board orientation | Secretary | Board, Chairman, Gov. & Performance Review Com. | | |
| Management Leadership Transitions | | | | | Gov. & Performance Review Com. | | |

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

| RISK TO LSC RESOURCES – PEOPLE | | | | | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|--------------------------------|-----------------------------------|--------------------------------------------------------------------------------|
| Risks | | | Strategies | Who is responsible? | | Last report to Board ¹ | Next report to Board |
| | Probability | Severity | | Management | Board | | |
| -- President | H | M | <ul style="list-style-type: none"> • Presidential transition plan | President | | | 1/15 |
| -- Other senior leadership changes | M | M | <ul style="list-style-type: none"> • Transition plan | President | Gov. & Performance Review Com. | | 1/15 |
| Management/IG Relations -- Potential for problems | M | H | <ul style="list-style-type: none"> • Communicate, coordinate, cooperate • Regular meetings | President | Audit Com. | 10/14 | 1/15 |
| Management Leadership Performance -- Preventing leadership problems | L | H | <ul style="list-style-type: none"> • Cohesive, effective management team • Emphasis on high standards • Regular communications with board, staff, grantees, public, OIG • Regular performance evaluations | President | Gov. & Performance Review Com | 4/6/14 | |
| Management System Risks <ul style="list-style-type: none"> ■ Performance Management (failure to achieve performance of defined goals including implementation of Fiscal Oversight and Pro Bono Task Force) | M | H | <ul style="list-style-type: none"> • Create formal organizational management performance cycle including articulation of goals and metrics • Routine reporting of performance • Providing training to close competency gaps | President OHR Director | Ops. & Regs. Com. | 4/7/14 | 1/15 (PBTF Implementation Update) 4/15 (Overall Performance Management) |

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

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

| | | | | | | | |
|--|--|--|------------------------------------------------------------------------------------------------------------------------------------------|------|--|--|--|
| | | | <ul style="list-style-type: none">Continue to assess MGO expenses to reduce any unnecessary duplication and inefficiencies | VPGM | | | |
|--|--|--|------------------------------------------------------------------------------------------------------------------------------------------|------|--|--|--|

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

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

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

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

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

| RISK TO LSC RESOURCES – GRANTEES | | | | | | | |
|-----------------------------------------|--------------------|-----------------|------------------------------------------------------------------------------------------------------------|----------------------------|--------------|-----------------------------|-----------------------------|
| Risks | | | Strategies | Who is responsible? | | Last report to Board | Next report to Board |
| | Probability | Severity | | Management | Board | | |
| | | | <ul style="list-style-type: none"> • Periodic review of regulations • OLA opinions | VPLA | | | |

Responsibilities for Risk Management

Board of Directors

- Sets strategic goals and objectives, adopts annual operating budget, and approves risk management plan.
- Reviews operational reports to monitor progress towards goals as defined in *Strategic Directions* and assure compliance with organizational requirements.
- Adopts and establishes policies and regulations.
- Reviews the organization's risk management plan (RMP).
- Maintains working relationship with members of Congress.
- Board Committees to review implementation of RMP.

President

- Has overall responsibility for the effective implementation of the RMP.
- Assigns staff to design and carry out risk management activities.
- Assigns staff to perform annual review of the risk management activities.
- Approves all grants for the Corporation.
- Executes major contracts for the organization.
- Keeps the Board apprised of emerging threats and opportunities facing the organization.
- Leads the Executive Team in periodic review and update of the risk management plan.
- Gives final approval to the plan.
- Maintains effective relationship with members of Congress and staff.

Vice President for Legal Affairs

- Serves as advisor to the Board of Directors in legal matters, consulting outside counsel on an as needed basis.
- Advises senior staff on contracts; reviews contracts on an as needed basis.
- Monitors implementation of risk management program.
- Recommends any necessary modifications.

Vice President for Grants Management

- Supervises oversight of grantee operations and compliance.

Treasurer/Comptroller

- Establishes, conducts, and maintains internal controls for financial transactions.
- Purchases D&O insurance.

Executive Team

- Oversees organization-wide effort to protect the vital assets of LSC
- Convenes periodically to review the Corporation's priority risks and corresponding risk management strategies.

Office Directors

- Review and recommend modifications to corporate risk management program.
- Supervise implementation of risk management strategies within their area of responsibility.

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

Office of Compliance and Enforcement

MEMORANDUM

To: Audit Committee

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

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

Date: January 7, 2015

During Calendar Year (CY) 2014, the Office of Inspector General’s Audit Division made five referrals to LSC Management. Of those, three have been closed and two are still pending. In addition, LSC Management investigated and closed five referrals that had been pending at the start of CY 2014.

| | Pending at Outset | Referred during Quarter | Closed during Quarter | Remaining Open at End of Quarter |
|-----|-------------------|-------------------------|-----------------------|----------------------------------|
| Q 1 | 5 | 0 | 3 | 2 |
| Q 2 | 2 | 1 | 2 | 1 |
| Q 3 | 1 | 3 | 0 | 4 |
| Q 4 | 4 | 1 | 3 | 2 |

Summary of 2014 Activity

OIG Audit Referrals Open at Beginning of the Year and Closed during the Year: 5

1. **Inland Counties Legal Services, Inc.** On August 6, 2012, the OIG referred \$1,384,670 in questioned costs related to stipends and other benefits charged to the LSC fund during the period 2007-2011. On November 15, 2012, the OIG reduced the referral amount to \$1,367,480:
 - a. \$291,629 for stipends and other benefits charged to the LSC funding line in 2006;
 - b. \$301,989 for stipends and other benefits charged to the LSC funding line in 2007;
 - c. \$336,873 for stipends and other benefits charged to the LSC funding line in 2009; and
 - d. \$436,989 for stipends and other benefits charged to the LSC funding line in 2010.

At the time of the OIG’s referral, the \$291,629 charged to LSC funds in 2006 was not subject to review, as LSC regulations allow Management to question only costs incurred within a five-year time frame. Additionally, the \$301,989 charged to LSC funds in 2007

became exempt from review on January 1, 2013, within six weeks after the OIG's revised referral; six weeks was not sufficient time for Management to complete its review.

On September 30, 2013, a Notice of Questioned Costs was issued in the amount of \$252,069. That amount was based on the portion of stipends and other benefits that should have been proportionally charged to non-LSC funding sources in 2009 and 2010:

- a. \$106,115 for stipends and other benefits that should have been charged to non-LSC funding sources in 2009, and
- b. \$145,954 for stipends and other benefits that should have been charged to non-LSC funding sources in 2010.

The remaining \$521,793 (\$230,758 charged to LSC in 2009 and \$291,035 charged to LSC in 2010) was determined to be an allowable expense pursuant to 45 CFR Part 1630 and OMB Circular A-122.

On January 29, 2014, LSC issued a Management Decision confirming the Notice of Questioned Costs and determining to recoup \$252,069 from ICLS' remaining funding checks for 2014.

On April 18, 2014, the LSC President upheld the Management Decision to recoup \$252,069. Those funds were recouped by withholding amounts from ICLS' remaining grant payments during 2014.

Total time from date of the revised referral to the date of the President's decision was 519 days. Total time from date the Notice of Questioned Costs was issued to the date of the President's decision was 200 days.

2. **Lone Star Legal Aid.** On January 24, 2013, the OIG referred \$45,762 in questioned costs. On February 22, 2013, the OIG reduced the referral amount to \$18,481:
 - a. \$13,178 was referred based on the program's failure to request LSC's prior approval before purchasing personal property (computer software), and
 - b. \$5,303 was referred as a combination of:
 - i. \$2,481 in unallowable expenses (flowers and other items purchased for staff);
 - ii. \$2,157 in unsupported costs (credit card expenses without proper documentation); and
 - iii. \$665 for three missing inventory items (a camera and other IT items).

LSC Management determined that the OIG's interpretation of the LSC Property Acquisition and Management Manual did not comport with Manual's intended meaning of "acquisition of single items of over \$10,000." As a result, the \$13,178 referred by the OIG was not subject to question, as LSC's prior approval was not required for the purchase in question. This misinterpretation, and Management's plans to revise the Manual to avoid such misinterpretations, was discussed with the OIG prior to LSC Management's issuance of a Notice of Questioned Costs.

On February 28, 2014, a Notice of Questioned Costs was issued in the amount of \$5,303 (as noted above).

On April 28, 2014, LSC issued a Management Decision to recoup \$2,116:

- a. \$1,451 in unallowable costs, and
- b. \$665 for missing property items.

The program was able to demonstrate that the remaining amount initially questioned, \$3,187, had either been incurred outside of the five year period allowed by 45 CFR Part 1630 or was properly supported. As the amount to be recouped was less than \$2,500, LSLA had no right to appeal. The \$2,116 was recouped by withholding amounts from LSLA's remaining grant payments during 2014.

Total time from date of the revised referral to the date of the Management Decision was 430 days. Total time from date the Notice of Questioned Costs was issued to the date of the Management Decision was 59 days.

3. **Idaho Legal Services.** On April 1, 2013, the OIG referred \$215,015 in questioned costs:
 - a. \$211,011 was referred based on failure to adequately document personnel and fringe benefit expenses related to TIG grant expenditures, and
 - b. \$4,040 was referred as unexpended TIG funds that were not returned at the conclusion of the grant.

As the result of informal investigation and negotiation, LSC Management determined not to pursue a questioned costs proceeding. The program was able to demonstrate sufficient documentation existed to support the personnel and fringe benefit expenses allocated to its TIG grant. The program was also able to demonstrate additional expenditures of \$631 that had not originally been charged to the TIG grant. As a result, the amount of unexpended TIG funds was reduced to \$3,409. On March 4, 2014, the program submitted a check to repay that amount.

Total time from date of the referral to the date Management received the recouped funds was 337 days.

4. **Central Virginia Legal Services.** On September 30, 2013, the OIG referred \$909 in questioned costs:
 - a. \$241 in unallowable costs (flower purchases and donations for staff), and
 - b. \$129 in unsupported costs (credit card expenses without documentation and purchases that did not comply with CVLAS policy requirements).

On March 13, 2014, as the result of informal investigation and negotiation, the program submitted a repayment of \$241 for the unallowable expenses. LSC Management determined that the program had taken sufficient action to remedy the procedural

deficiencies related to insufficient supporting documentation and, therefore, determined not to recoup those expenses.

Total time from date of the referral to the date Management received recouped funds was 164 days.

5. **Indiana Legal Services.** On September 30, 2013, the OIG referred \$4,159 in questioned costs:
 - a. \$667 in unallowable costs (flowers purchased for staff and late fees on credit card charges);
 - b. \$614 in unsupported costs (expenses lacking supporting documentation); and
 - c. \$2,878 in unsupported costs (contract missing).

On March 7, 2014, the program provided LSC Management with a copy of the missing contract; therefore, the cost was determined to be properly supported and not subject to question. Additionally, the program provided evidence of previously reimbursing its LSC funding line by \$1,281 for the remaining unallowable and unsupported costs noted above.

Total time from date of referral until evidence provided by ILS was deemed sufficient was 158 days.

New Referrals Opened and Closed During The Year: 3

1. **Legal Services of Alabama.** On June 11, 2014, the OIG referred \$29,914 in questioned costs:
 - a. \$3,462 in unallowable costs (including membership dues or fees, flower purchases, etc.);
 - b. \$6,569 in unsupported costs (credit card and other expenses without supporting documentation);
 - c. \$15,179 in insufficiently supported costs (travel expense reports not included with credit card disbursements); and
 - d. \$4,704 in expenses related to matching costs, when other non-LSC funds existed.

After the issuance of the OIG's report and referral, the program provided LSC Management with additional information and supporting documentation.

On July 31, 2014, after reviewing the additional information provided, a Notice of Questioned Costs was issued in the amount of \$19,717:

- a. \$3,605 in unallowable costs;
- b. \$2,184 in unsupported charges;
- c. \$9,224 in insufficiently supported costs; and
- d. \$4,704 in expenses related to matching costs.

On November 20, 2014, LSC Management issued a Management Decision to recoup \$12,736:

- a. \$2,840 in unallowable costs (including flower and alcohol purchases);
- b. \$1,256 in undocumented costs (credit card expenses without proper documentation);
- c. \$3,935 in insufficiently supported costs (travel expense reports not associated with credit card payments, luncheons without documentation supporting business reasons); and
- d. \$4,704 used for matching funds when other funds existed.

LSC determined that the program was able to provide documentation sufficient to support the use of LSC funds for the remaining \$6,981. Pursuant to 45 CFR § 1630.7(c), LSA was allowed 30 days, until December 20, 2014, to appeal the decision to the LSC President. As of January 5, 2015, no appeal had been received. Therefore, LSC Management considers this referral to be closed. The \$12,736 that the Management Decision determined should be recouped will be withheld from LSA's remaining grant payments in 2015.

Total time from date of the referral to the date the appeal period lapsed was 192 days. Total time from date Notice of Questioned Costs issued to the date of the Management Decision was 162 days.

2. **Legal Aid of Services of Oregon.** On July 30, 2014, the OIG referred \$4,789 in questioned costs:
 - a. \$1,453 in unallowable costs (local bar membership dues incorrectly charged to LSC funds in 2009);
 - b. \$1,732 in unallowable costs (bar membership dues incorrectly charged to LSC funds 2010); and
 - c. \$1,604 in unallowable costs (bar membership dues incorrectly charged to LSC funds in 2011).

OCE conducted a previously scheduled onsite review of the grantee during the week of October 6, 2014 and used that opportunity to obtain additional or clarifying information.

It was determined that \$3,648 should be recouped for unallowable costs (bar dues charged to LSC funds). Documentation provided by the program demonstrated that the remaining amount (\$1,141.30), also for bar dues, had been incurred outside of the 5-year recoupment period allowed by 45 CFR Part 1630, as those expenses were incurred in February and May of 2009 - before the OIG report/referral was issued. On October 9, 2014, the grantee provided LSC with a check for \$3,648.

Total time from date of the referral to the date Management received recouped funds was 71 days.

3. **Southern Arizona Legal Aid.** On September 11, 2014, the OIG referred questioned costs in the amount of \$599 for unallowable costs related to flower purchases.

On September 24, 2014, due to the minimal amount in question, LSC Management initiated informal negotiations with SALA, rather than initiating a formal questioned costs proceeding. OCE received a check for the full amount on December 2, 2014. SALA also refunded LSC the \$1,000 in attorneys' fees mentioned in the OIG's report, but not included in the referral.

Total time from date of the referral to the date Management received recouped funds was 82 days.

New Referrals Opened and Remaining Open at End of Year: 2

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

On October 17, 2014, the NLS ED provided OCE with additional information which NLS felt the OIG had not correctly considered. OCE staff is in the process of reviewing this information and will make a recommendation regarding course of action to the Vice President for Grants Management by January 15, 2015.

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

On October 22, 2014, LSC Management contacted LSNYC to request an accounting of the time charged to, and the funding sources so charged, for each of the 25 cases in question. That information was provided on November 27, 2014. After reviewing the materials provided, on December 15, 2014, LSC asked LSNYC to provide additional documentation. LSC has been in communication with LSNYC and expects to receive the information on or about January 12, 2015.

Reconciliation of OIG Questioned Costs to Amounts Recouped on Closed Referrals

| | <u>Costs</u> | <u>% of Total</u> |
|---------------------------------------------------------------------------------------|--------------------|-------------------|
| Total Questioned Costs on Closed Referrals | <u>\$1,641,382</u> | <u>100%</u> |
| Supporting Documentation Subsequently Received or Research Indicated Was Allowable | <u>\$ 767,329</u> | <u>47%</u> |
| Questioned Cost Not Pursued Due to Statute of Limitations | <u>\$ 597,286</u> | <u>36%</u> |
| Subtotal of Costs for Management to Pursue | <u>\$ 276,766</u> | <u>17%</u> |
| Amount Recouped | <u>\$ 277,099</u> | <u>100%</u> |

STATUS OF OPEN REFERRALS FROM OIG AUDIT DIVISION TO OCE (Thru January 8, 2015)

| State | Grantee | Date of OIG Onsite/ Review | Date of OIG Report | Date of Referral to OCE | OIG Referral - Issues and Amounts | LSC Action | Amount Disallowed by LSC | Resolution | Date Closed |
|-------|--------------------------------------|-------------------------------------|-----------------------|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|------------|-------------|
| 1 | NV Nevada Legal Services, Inc. | 11/11- 15/13 | 8/7/2014 | 8/18/2014 | OIG referred \$1,375 in questioned costs: \$1,246 for unallowable charges and \$129 for inadequately supported costs. (OIG's referral originally indicated an additional \$599 of inadequately supported costs were to be questioned. The number was resolved as being only \$129 via email from the OIG's office dated September 5, 2014.) | OCE has been in contact with the OIG to obtain supporting documentation and clarifying information. OCE has recommended a course of action to the Vice President for Grants management which will include attempting informal negotiation regarding the questioned costs and requiring program submission of sufficient documentation to demonstrate corrective actions taken in regard to its: cash disbursements policies and procedures to ensure that LSC funds are not used for prohibited purposes; its contracting policies and procedures to ensure they address all elements required by LSC's fundamental criteria, including training of staff on those polices/procedures. On October 17, 2014, the NLS ED provided OCE with additional information which NLS felt the OIG had not correctly considered. | | | Pending |
| 2 | NY Legal Services NYC | 1/13- 17/14 and 6/2-6/14 | 10/9/2014 | 10/16/2014 | OIG referred \$196,837 in questioned costs - all stemming from attorneys' fees received during 2013. The OIG examined 6 of the 25 cases in question and determined, based on the % of LSC funding used to support those 6 cases, that \$196,837 should have been allocated to the LSC funding line. | OCE contacted the LSNYC ED, on October 17, 2014, to inquire as to whether any actions had yet been taken in response to the OIG report. The ED informed OCE that LSNYC had begun reviewing case and time records to determine the amount of time actually allocated to LSC for each case - rather than depending on the OIG's sampling to determine what, if any additional funds need to be questioned. By email dated October 22, 2014, OCE requested that OIG provide case information related to the 6 cases the OIG reviewed on site. That documentation was provided on October 23, 2014. By email dated October 22, 2014, OCE contacted the LSNYC ED to formalize its request for information related to the 25 cases for which LSNYC received attorneys' fees in 2013. LSNYC provided the requested information on November 26, 2014. On December 15, 2014, OCE requested that clarifying information be provided. This information is expected to be received on or before January 16, 2015. | | | |

RESOLVED REFERRALS (Involving Questioned Costs) FROM OIG AUDIT DIVISION TO OCE - Calendar Year 2014

| | State | Grantee | Date of OIG Onsite/ Review | Date of OIG Report | Date of Referral to OCE | OIG Referral | OCE Action | Resolution & Reasoning | Date OIG advised of Closure |
|---|-------|-----------------------------------------|-----------------------------------------|------------------------------------------------|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| 1 | CA | Inland Counties Legal Services, Inc. | 1/11-15/11 and 8/1- 5/11 | 7/25/12 revision provided on 11/15/12 | 8/6/12 | The OIG originally referred questioned costs in the amount of \$1,384,670 for stipends and other benefits charged to the LSC fund. This amount was reduced to \$1,367,480 by memo dated 11/15/12 and was comprised of: \$291,629 for costs incurred in 2006; \$301,989 for costs incurred in 2007; \$336,873 for costs incurred in 2009; and \$436,989 for costs incurred in 2010. | On 9/30/13, a Notice of Questioned Costs in the amount of \$252,069.33 was issued. This amount was based on the following: 1) pursuant to LSC regulation 45 CFR Part 1630, \$291,629 of the amount referred was not questionable at the time of the OIG's referral; 2) pursuant to LSC regulation, an additional \$301,989 was not questionable within 6 weeks of the OIG's resolution and notification of final amount to be questioned; 3) of the remaining \$773,862, OCE determined that it should only question that portion of the allocated funds that should have been allocated to non-LSC funding sources, as the use of stipends was allowable and reasonable but only to the extent that the LSC grant was benefited. As LSC provided 68.5% and 66.6% of ICL's funding, respectively in 2009 and 2010, the amount questioned was calculated as the 31.5% and 33.4% of the stipends that should have been allocated to non-LSC funding sources for 2009 and 2010, respectively. | By decision dated January 29, 2014, LSC determined to recoup \$252,069.33. On April 14, 2014, the LSC President upheld that decision in full. The amount recouped was based on subtracting the \$291,629 expended in 2006 (unquestionable pursuant to 1630 at time of referral as outside of 5 year period allowed by regulation) and \$301,989 expended in 2007 (realistically not questionable at time of referral) from \$1,367,480 left a total of \$773,862 (expended in 2009 and 2010) as potentially questionable. As OMB Circulars allow for the use of funds for stipends/incentive pay, OCE determined that a portion of the funds expended were allocable to LSC funds and determined to question only that portion of the stipends that should have been allocated to non-LSC funds. These funds were recouped by withholding funds from the program's 2014 disbursement checks. | 04/18/14 |
| 2 | TX | Lone Star Legal Aid | 5 visits between 8/10 and 1/11 | 1/15/13 revision provided on 2/22/13 | 1/24/13 | OIG originally referred \$45,762 in questioned costs due to unallowable expenses (\$2,481), unsupported credit card charges (\$2,157), purchases exceeding \$10,000 for which LSC prior approval was not obtained (\$40,458), and physical inventory items that could not be located (\$665). That amount was reduced by \$27,280 on 2/22/13. The remaining \$13,178 for failing to request prior approval and the other costs (unallowable expenses, unsupported credit card charges and missing inventory items) remained questioned for a total of 18,482. | On 2/28/14, a Notice of Questioned Costs in the amount of \$5,303 was issued. This amount was based on unallowable expenses (\$2,481) unsupported credit card charges (\$2,157) and missing personal property (\$665). An OLA opinion issued in February opined that the software purchase of \$13,178 was not personal property and was therefore not subject to prior approval requirements. | By decision dated April 28, 2014, LSC determined to recoup \$2,116. This amount was comprised of \$1,451 for unallowable expenses (the program provided evidence that the remaining \$1,030 in unallowable expenses took place outside of the 5 year period allowed by 45 CFR Part 1630) and \$665 for missing property. Additionally, the program provided evidence supporting \$660 in credit card charges and argued, correctly, that the remaining \$1,497 was outside of the 5 year recoupment period. The recouped funds were withheld from the program's 2014 disbursement checks. | 5/2/2014 |
| 3 | ID | Idaho Legal Services | | 4/1/13 | 4/1/13 | OIG referred \$215,051 in questioned costs related to TIG expenditures. Of that amount \$211,011 was questioned due to failure to adequately document personnel and fringe benefit expenditures and \$4,040 was noted to be unexpended funds that were not returned to LSC at the completion of the grant. | Based on OCE's experience in initiating questioned costs on three (3) earlier TIG referrals from the OIG, it was decided to contact the program regarding the types of evidence it would be able to submit in response to a 1630 proceeding. Based on the information received LSC, determined that it would not question the \$211,011 in personnel and fringe benefit expenditures but would require the program to return \$3,409 in unexpended TIG funds pursuant to 45 CFR Part 1628. (The program was able to verify an additional \$631 in expenditures thus reducing the unexpended fund balance amount.) | The program submitted a check in the amount of \$3,409 on 3/4/14. | 3/4/2014 |

RESOLVED REFERRALS (Involving Questioned Costs) FROM OIG AUDIT DIVISION TO OCE - Calendar Year 2014

| | State | Grantee | Date of OIG Onsite/ Review | Date of OIG Report | Date of Referral to OCE | OIG Referral | OCE Action | Resolution & Reasoning | Date OIG advised of Closure |
|---|-------|------------------------------------|------------------------------------------------|--------------------------|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4 | VA | Central Virginia Legal Services | | 9/30/13 | 9/30/13 | OIG referred \$909 in questioned costs: \$241.20 in unallowable costs for purchases of flowers or donations in lieu of; \$129.61 in unsupported costs for credit card charges without supporting documentation; and \$538.61 in unapproved costs for in office supply purchases that did not have purchase orders as required by the grantee's policy. | Due to the minimal amount in question, LSC entered into informal negotiations to settle this referral. As a result, the program reimbursed LSC for \$241.20 and provided evidence of receiving benefits for the remaining \$748.22 in question, as well as evidence of changes in policy/procedure to ensure future documentation or process deficiencies do not occur. | The program submitted a check in the amount of \$241.20 on 3/13/14. | 3/19/2014 |
| 5 | IN | Indiana Legal Services, Inc. | | 9/30/13 | 9/30/13 | OIG referred \$4,159 in questioned costs: \$363 in Unallowable costs for purchases of flowers for bereaved employees and \$304 for late fee charges on credit/gas cards (Total = \$667) and unsupported costs in the amounts of \$55 for conference; \$13 for lunch; \$546 for lunches without business purpose/attendee names on receipt (\$614); and \$2,878 for moving expenses without statement of work detailing the number of hours/workers required to complete (Total = \$3,492). | Due to the minimal amount in question, LSC entered into informal negotiations to settle this referral. As a result, the program demonstrated that it had used non LSC funds to reimburse LSC for the \$667 in unallowable charges and the \$614 in unsupported costs that had been identified. Additionally, the program provided sufficient supporting evidence for the \$2,878 that the OIG questioned, as well as evidence of changes in policy/procedure to ensure future deficiencies do not occur. As a result no costs were questioned but the LSC funding line was reimbursed \$1,281. | LSC funding line was reimbursed \$1,281. | 3/7/2014 |
| 6 | AL | Legal Services Alabama | 10/16- 24/13 | 6/9/14 | 6/11/14 | OIG referred \$29,914.03 in questioned costs: \$3,462 for unallowable charges; \$6,569 for unsupported charges; \$15,179 for insufficiently supported costs; and \$4,704.03 related to matching costs. | OCE contacted the OIG to request supporting documentation. After reviewing the available material, OCE submitted a memorandum of recommended action to the Vice President for Grants Management on June 25, 2014. On June 27, 2014, LSA contacted OCE to ask if it could provide additional documentation in response to the OIG's report. The information was received via email the same day and was reviewed in order to determine if the recommendation to the VP should be modified. On July 30, 2014, the Vice President for Grants Management issued a Notice of Questioned Costs in the amount of \$19,717.01 (\$3,605.25 for unallowable charges; 2,184.49 for unsupported charges; \$9,224.24 for insufficiently supported charges; and \$4,704.03 related to matching costs). By email dated August 27, 2014, LSA requested an extension of time to respond to the Notice. LSA's response was received on September 19, 2014. LSC issued a Management Decision on November 20, 2014 in which it determined that \$12,736 should be recouped. | Prior to the issuance of the Notice of Questioned Costs, LSA was able to provide sufficient documentation to support allowance of \$10,197 of the expenses referred by the OIG. In responding to the Notice, LSA provided additional documentation related to \$6,980.78 questioned in the Notice. LSC issued a Management Decision to recoup \$12,736.23 (\$2,840.25 for unallowable charges; \$1,256.20 for unsupported charges; \$3,935.75 for insufficiently supported charges; and \$4,704.03 related to matching costs). These funds will be recouped from the program's 2015 funding payments. | As of January 5, 2015, LSA had not submitted an appeal. As the 30 day appeal period lapsed on December 20, 2014, OCE considers this matter closed as of December 31, 2014. OIG was advised of this closure on January 9, 2015. |
| 7 | OR | Legal Aid Services of Oregon | 1/8-15/13 and 11/4-5/13 | 6/30/14 | 7/2/14 | OIG referred \$4,789.08 in questioned costs related to local bar association fees incorrectly charged to LSC funds in 2009, 2010, and 2011 due to fees being paid out of a pooled (non-LSC and LSC) funding account: amounts questioned were \$1,453.50 for 2009, \$1,731.58 for 2010, and \$1,604.00 for 2011. | OCE conducted an onsite review of LASO during the week of October 6, 2014 and used that opportunity to obtain additional or clarifying information regarding the amount of funds referred by the OIG that were within the 5 year recoupment period allowed by LSC regulations. It was determined that \$3,647.78 should be recouped. | The program provided LSC with a check for \$3,647.78. The remaining amount referred - (\$1,141.30) was outside of the 5 year recoupment period, having been paid in February and May of 2009 - before the date of the OIG report/referral. | 10/17/14 |
| 8 | AZ | Southern Arizona Legal Services | 11/27/12 - 12/5/12 and 6/24- 26, 2013 | 5/15/2014 | 9/11/2014 | OIG referred \$ 559.48 related to unallowable costs (the purchase of flowers) | On September 24, 2014, because of the minimal amount in question, LSC management initiated informal negotiations with SALA, rather than initiating a formal questioned cost proceeding. On October 29, 2014, the SALA ED sent an email stating that a check would be issued to OCE for the full amount. OCE received the check on December 2, 2014. SALA also refunded LSC for \$1,000 in attorneys fees mentioned in the OIG's report but not included in the referral. | The program provided LSC with a check for \$1,559.48. | 12/2/14 |

Pending Issues Referred from Audited Financial Statements

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

Pending Issues Referred from Audited Financial Statements

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

Pending Issues Referred from Audited Financial Statements

| | | Grantee Name | Referral Number | Date of Referral | OIG's Finding Description | OIG's Justification for Referral | OCE's Determination | Status of Referral |
|---|----|-------------------------------|-----------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| | | | 2013-805230-01 | 6/26/2013 | Policies & procedures for use of the accounting software and preparation of monthly, quarterly and annual transactions & reconciliations were not adequately documented. There were also account reconciliations that were not updated or thoroughly analyzed. | OIG noted that grantee management stated that continual turnover of key accounting personnel resulted in the condition. Grantee had stated that they would have the accounting manual updated by 2012. Referred to OCE for follow-up to ensure corrective action is taken as this was a prior year finding. | ICLS submitted a revised/updated accounting manual containing the requested policies and procedures. OCE considers this referral closed but will review the concerns during the upcoming onsite review. | OCE will be reviewing the IPA's concerns during the upcoming onsite review in January 2015. |
| | | | 2013-805230-02 | 6/27/2013 | The grantee did not maintain effective oversight over its retirement plan. The grantee did not always obtain signed payroll deduction forms authorizing payroll deductions to repay retirement plan loans and the form was outdated. | OIG noted that grantee management stated that they will develop a written protocol/checklist of actions necessary when a plan administrator leaves the program to be included in the accounting manual being updated. Referred to OCE for follow-up to ensure corrective action is taken. | OCE reviewed the documents submitted by ICLS and found the corrective actions taken and protocols established appear to be sufficient. OCE is conducting an onsite review in January 2015, at which time all of the IPA's concerns will be reviewed. | OCE will be reviewing the IPA's concerns during the upcoming onsite review in January 2015. |
| | | | 2014-805230-01 | 6/3/2014 | IPA noted grantee did not have a system in place to verify whether vendors were suspended or disbarred. | According to the IPA, the grantee stated that written protocols would be put in place to ensure that when considering bids for procurement in excess of \$25,000, a debarment and suspension check would be conducted. Referred to OCE for follow-up to ensure corrective action is taken. | OCE will review the sufficiency of the corrective actions take by the program during the January 2015 onsite review. | |
| | | | 2014-805230-02 | 6/3/2014 | IPA noted that 5 clients who had expired immigration cards received legal services. | The IPA noted that the program is reviewing and revising their policies to ensure compliance with 45 CFR Part 1626. The OIG referred the issue to OCE to ensure necessary actions are undertaken. | The program's adherence to 45 CFR Part 1626 will be assessed as part of the OCE onsite review in January 2015. | |
| 4 | MO | Legal Aid of Western Missouri | 2013-526010-01 | 6/27/2013 | Initial testing and follow-up testing showed that the vast majority of the organization's staff members comply with LSC timekeeping requirements. There are, however, a small number of staff members who are not in compliance. | OIG reported that grantee mgmt. fully understands the nature of the requirement and will take necessary steps to ensure that all staff is in compliance. OIG further noted that grantee mgmt. states that upon being informed by the IPA of the issue; they took action to address the issue. Referred to OCE for follow-up to ensure corrective action taken. | OCE considers this referral to have been resolved. Once a Final Report is issued, it will be provided to the OIG as evidence of the resolution. | An OCE Compliance Review was conducted in November 2013. This issue was reviewed and found to no longer be a concern. |

Pending Issues Referred from Audited Financial Statements

| | | Grantee Name | Referral Number | Date of Referral | OIG's Finding Description | OIG's Justification for Referral | OCE's Determination | Status of Referral |
|---|----|---------------------------------------|-----------------|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5 | AL | Legal Services Alabama, Inc. | 2013-601037-01 | 10/3/2013 | One difference was noted for payroll time entry used for cost allocation purposes. | OIG referred this as a repeat finding which requires OCE follow-up. | An onsite OCE site visit has been scheduled for January 2015. | OCE has noted this deficiency in its risk assessment chart. OCE will conduct an onsite visit in January 2015. At that time OCE will conduct testing to determine whether this a systemic issue or has been solved. (As noted in 2013 audited financial statements, it is likely the issue has been resolved.) |
| 6 | NM | New Mexico Legal Aid | 2013-732010-01 | 6/26/2013 | Improper Board Composition | OIG noted that this was repeat finding from 2011. The ED and the Human Board Composition Resources Director have been working with Board members and management staff to identify potential new client members and qualified appointing organizations willing to nominate them. Referred to OCE for follow-up to ensure corrective action is taken. | OCE is waiting for official documentation from NMLA before advising the OIG that this finding should be closed. | As previously noted, LSC formed a multi-divisional working group to address the issue of Board Composition. NMLA indicated that it would be in compliance with 45 CFR Part 1607 by September 27, 2014. |
| 7 | VA | Central Virginia Legal Services, Inc. | 2014-447030-01 | 2/25/2014 | Recipient must state who prepares monthly bank reconciliations, who reviews the reconciliations, and who approves & certifies the reconciliations. Due dates for each steps to be established. Follow-up by LSC management needed to ensure implementation. | OIG noted based upon inquires with management that bank reconciliations and reviews were not being performed on a timely basis. OIG also noted that management during their review was not tracing bank reconciliation totals back to the trial balance and General Ledger. | By letter dated March 7, 2014, OCE requested specific information regarding the IPA's findings. The program responded on March 21, 2014. OCE reviewed the information received and found it sufficient to close #2014-447030-03 but not ## 2014-447030-01, 2014-447030-02 and 2014-447030-05. OCE continues to work with the program to close these referrals. OCE conducted a Technical Assistance Review of this program on August 18-20, 2014 . | This information has been noted in the OCE Risk Assessment Chart for consideration in selecting upcoming visits. Additionally, as OCE received a copy of CVLAS' 2013 audited financial statements during the competition cycle for 2015 funding, OCE recommended that several targeted Special Grant Conditions be imposed on the program's 2015 grant. That recommendation was accepted. OCE conducted a Technical Assistance Review of this program on August 18-20, 2014 and will continue to provide additional oversight and training as necessary. |
| | | | 2014-447030-02 | 2/25/2014 | This is a repeat finding from the prior year. The CA mentions a payroll module being added to the case management system but does not mention a timeframe. | Based upon inquires with management and review of time records OIG noted instances were attorneys had not contemporaneously inputted a portion of their time into CVLAS' time keeping system by case matter and supporting activities. | By letter dated March 7, 2014, OCE requested specific information regarding the IPA's findings. The program responded on March 21, 2014. OCE reviewed the information received and found it sufficient to close #2014-447030-03 but not ## 2014-447030-01, 2014-447030-02 and 2014-447030-05. OCE continues to work with the program to close these referrals. OCE conducted a Technical Assistance Review of this program on August 18-20, 2014 . | |

Pending Issues Referred from Audited Financial Statements

| | Grantee Name | Referral Number | Date of Referral | OIG's Finding Description | OIG's Justification for Referral | OCE's Determination | Status of Referral |
|--|--------------|-----------------|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| | | 2014-447030-03 | 2/25/2014 | OIG indicated that LSC Management may want to follow-up on this requirement as 12 of 25 selections made by the IPA did not contain notice to the funding source. The CA mentions sending letters will be the sole responsibility of the ED, does not mention when the action will be put into place. | OIG noted instances where CVLAS had not provided to the source of funds written notification of LSC prohibitions and conditions. | By letter dated March 7, 2014, OCE requested specific information regarding the IPA's findings. The program responded on March 21, 2014. OCE reviewed the information received and found it sufficient to close #2014-447030-03 but not ## 2014-447030-01, 2014-447030-02 and 2014-447030-05. OCE continues to work with the program to close these referrals. OCE conducted a Technical Assistance Review of this program on August 18-20, 2014. This referral is being left open until all related referrals can be closed. | |
| | | 2014-447030-04 | 2/25/2014 | Incorrect cost and time allocations can lead to possibly incorrect revenues and expenses for grants/contracts. Program management should make decisions based on revenues/expenses. The CA should be followed up on. | Cost allocations are not being performed on a timely basis. Also timesheet are not being properly monitored by management and adjusted when funding sources have been eliminated or depleted. Also the funds in the accounting system need to be utilized. | This issue was addressed via Special Grant Conditions. OCE also conducted a Technical Assistance Review of this program in August 2014 and provided additional training and support. This referral is being left open until all related referrals can be closed. | |
| | | 2014-447030-05 | 2/25/2014 | Based on review of the CA OIG feels LSC Management should ensure that the CA s being followed and follow-up on whether the Board approved the drafted policy mentioned. | OIG noted during inquires with management and review of credit card files instances were credit card receipts were not being properly maintained. | By letter dated March 7, 2014, OCE requested specific information regarding the IPA's findings. The program responded on March 21, 2014. OCE reviewed the information received and found it sufficient to close #2014-447030-03 but not ## 2014-447030-01, 2014-447030-02 and 2014-447030-05. OCE continues to work with the program to close these referrals. OCE conducted a Technical Assistance Review of this program on August 18-20, 2014 . | |

Pending Issues Referred from Audited Financial Statements

| | | Grantee Name | Referral Number | Date of Referral | OIG's Finding Description | OIG's Justification for Referral | OCE's Determination | Status of Referral |
|----|----|-----------------------------------|-----------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8 | ME | Pine Tree Legal Assistance, Inc. | 2014-120000-02 | 6/3/2014 | OIG noted the IPA found a significant amount of equipment was fully depreciated. The IPA recommended that program management review the inventory annually and that disposed of assets should be removed from the General Ledger. | IPA recommended the asset list be evaluated annually and compared to a physical inventory count. | Based on review of the program's submissions in conjunction with the fiscal component of the competitive grant application, OCE believes this issue had been resolved. | During the competitive grant process, the program's property management policies were reviewed and found to be sufficient. OCE has noted this issue in its risk assessment chart and will include assessment of this issue as part of its next onsite review. |
| 9 | IL | LAF (Legal Assistance Foundation) | 2014-514020-01 | 6/3/2014 | The IPA noted it found that 45 CFR Part 1636 written statements of fact were not obtained for each represented plaintiff in three (3) cases. | OIG noted that since this is a compliance requirement, OCE should follow-up to ensure compliance with 45 CFR Part 1636. | During the course of a recent onsite review, OCE found this issue to have been resolved. Referral being kept open until Final Report is issued by OCE. | OCE conducted an onsite review of this program in April, 2014. The visit found 2 (out of 756 case files reviewed) files that did not contain the required documentation. This was noted and explained to LAF both orally and in the draft report. LAF reported taking the required corrective action to avoid this deficiency in the future. The Final Report is in the process of being issued. Once the Final Report is issued, OCE will provide a copy of the Report to the OIG. |
| 10 | SD | East River Legal Services | 2014-542026-01 | 6/3/2014 | OIG noted the organization does not have an internal control system to support the preparation of audited financial statements. The IPA was requested to draft financial statements and notes accompanying financial statements. | OIG noted this was a finding in prior years. | OCE considers this referral to have been resolved. Once a Final Report is issued, it will be provided to the OIG as evidence of the resolution. | OCE conducted an onsite review of grantee in April, 2014. The Final Report, which found no deficiencies in internal controls given the small size of the fiscal staff, is in the process of being issued. Once issued, OCE will provide a copy of the Report to the OIG. |

LSC 403(b) Thrift Plan



MEMORANDUM

TO: The Board of Directors

FROM: Traci L. Higgins, Director, Office of Human Resources
Mark Freedman, Senior Assistant General Counsel

DATE: January 7, 2015

SUBJECT: Amendments to the 403(b) Thrift Plan

This memorandum outlines the proposed amendments to the 403(b) Thrift Plan.

Expanding Distribution Methods to Include Partial Withdrawals

As currently drafted, LSC's 403(b) Thrift Plan (Plan) allows former LSC employees to withdraw funds in three ways: a lump sum, installments on a specified schedule, or through an annuity created by the employee. LSC would like to amend the Plan to allow former employees to make partial withdrawals, which would permit the withdrawal of an employee-specified portion of their funds in a manner similar to how current employees over the age of 59.5 may take in-service partial distributions. Outside counsel advises that this proposal raises no legal issues and that more plans are allowing this distribution method. Similarly, our Plan Advisor, Dave Ponder, supports the amendment, as it will maximize flexibility for former employees who wish to use a variety of financial planning options. This change will not result in any increased expenses for LSC.

Defining Spouse Without Applying a One Year of Marriage Requirement

A legacy provision in many thrift plans imposes limits on what a surviving spouse could receive if married for less than one year. Counsel advises that current practice is to remove these requirements from plan documents. LSC wishes to remove any such limitations from its Thrift Plan. This change will not result in any increased expenses for LSC.

Allowing Age-Eligible Employees to Make Up to Four In-Service Withdrawals Per Calendar Year

As currently drafted, the Plan allows current employees who have reached the age of 59.5 to make one in-service withdrawal per calendar year. We have learned that LSC has been allowing more than one in-service withdrawal per calendar year, in violation of the Plan. We would like to amend the Plan to allow employees to make up to four in-service withdrawals per calendar year, or one withdrawal per quarter. Formalizing this change will continue to allow employees flexibility in accessing their funds, while ensuring LSC's Plan compliance and

limiting the administrative burden of processing these requests. This change will not result in any increased expenses for LSC.

Allow the Use of the Equivalency Method to Credit the Hours of Service of Temporary Employees Who Staff Program Visits

The Plan currently utilizes the Actual Method for crediting an employee for his or her hours of service. Under the Actual Method, an employee's time is tracked hour by hour. This approach works well for regular LSC employees who report to duty every day. LSC, however, utilizes a number of temporary employees to supplement the teams dispatched to perform grantee program visits and reviews. These individuals are paid on a project basis – not an hourly basis – thereby imposing a timekeeping requirement on these temporary employees solely for Plan compliance purposes. By adopting an Equivalency Method for these temporary employees, LSC would credit the employee with a pre-determined specific number of hours for the time worked, either on a daily or weekly basis. Implementation of this approach would obviate the need for temporary employees to submit timesheets and lessen the administrative burden on LSC to track their time.

BOARD OF DIRECTORS

RESOLUTION

On Amendments to the 403(b) Thrift Plan Regarding Partial Distributions, the Spouse Definition, In-Service Withdrawals, and the Use of Equivalency Method

WHEREAS, Legal Services Corporation (LSC) is the sponsor of the 403(b) Thrift Plan for Employees of the Legal Services Corporation (“Thrift Plan” or “Plan”) and American United Life (AUL) provides LSC with a 403(b) prototype plan annuity contract funding vehicle and recordkeeping services; and

WHEREAS, Article 1.04 of the Thrift Plan provides that LSC has the right to add addenda to the Plan at any time, and Article 9.02 of the Thrift Plan provides that LSC has the right to amend the Plan at any time; and

WHEREAS, the Thrift Plan does not permit former employees to take partial distributions from their accounts, which limits the options for former employees who retain accounts in the Thrift Plan; and

WHEREAS, the Thrift Plan’s definition of a spouse has a one-year marriage requirement in some instances, which excludes some spouses; and

WHEREAS, the Thrift Plan does not permit current age-eligible employees to take more than one in-service withdrawal per year; and

WHEREAS, the Thrift Plan allows LSC to use various methods to credit employees with hours of service, which will afford LSC greater flexibility in crediting the hours of service of temporary employees who staff the grantee visits and reviews conducted by LSC’s regular employees; and

WHEREAS, LSC Management recommends amending the plan to address these four issues.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors authorizes and directs the appropriate officers, employees, and agents of LSC to amend the Thrift Plan, to the extent permissible by law, in order to:

1. permit distributions to former employees through partial withdrawals,
2. define “spouse” without applying a one year of marriage requirement,
3. permit eligible employees to make up to four in-service withdrawals per calendar year, and
4. allow the use of the equivalency method for crediting the hours of service of temporary employees who staff grantee visits and reviews.

Adopted by the Board of Directors

On January 24, 2015

John G. Levi
Chairman

Ronald S. Flagg
Corporate Secretary



OFFICE OF HUMAN RESOURCES

MEMORANDUM

TO: The Audit Committee
FROM: Traci L. Higgins
DATE: January 5, 2015
SUBJECT: LSC 403(b) Thrift Plan – 4th Quarter 2014 Update

403 (b) Plan Performance

Our funds performed well in 2014, with eighteen of the twenty-five funds ending the year with continued growth over the last review period (through August 2014) and overall positive performance for 2014. BMO Small-Cap Growth, one of the seven underperforming funds, continued its lackluster performance from the last review period (-0.43%). Five of the remaining six underperforming funds belong to sectors that have been lagging on world markets – world/foreign/emerging markets funds and bond funds. The seventh fund is in the natural resources sector.

A report detailing fund performance through December 31, 2014 is attached.

Fund additions

As reported in September, LSC accepted the recommendation of its financial adviser, Dave Ponder, to add additional lower-cost index funds to the portfolio. At the time, Mr. Ponder recommended three funds and subsequently recommended a fourth, a bond fund, TIAA-CREF Bond Index Retirement. Beginning January 19, 2015, LSC employees can begin purchasing the following four index funds: Columbia Mid Cap Index A, TIAA-CREF Large-CP Value Idx Retire, TIAA-CREF Large-Cap Gr Idx Retire, and TIAA-CREF Bond Index Retirement. Each fund had positive returns for 2014, 9.22%, 13.10%, 12.73% and 5.70%, respectively. Each fund is listed in the attached performance report.

403 (b) Plan Distributions

A total of \$272,981.91 in distributions was made during the period September 1, 2014 – December 31, 2014. \$227,981.91 of the distributions was paid to former employees. The remaining \$45,000 represented two in-service withdrawals made by a/ current employee.

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

Institutional Advancement Committee

**Institutional Advancement
Communications Subcommittee
Agenda**

**INSTITUTIONAL ADVANCEMENT COMMITTEE
COMMUNICATIONS SUBCOMMITTEE**

January 22, 2015

Agenda

OPEN SESSION

1. Approval of agenda
2. Approval of minutes of the Subcommittee's Open Session telephonic meeting of September 19, 2014
3. Discussion of communication efforts
4. Discussion of the subcommittee's charter
5. Public comment
6. Consider and act on other business
7. Consider and act on adjournment of meeting

**Draft Minutes of the September 19, 2014
Subcommittee Open Session
Telephonic Meeting**

**Legal Services Corporation
Telephonic Meeting of the Institutional Advancement Communications Subcommittee**

Open Session

Friday, September 19, 2014

DRAFT

Chairman Julie A. Reiskin convened an open session meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Communications Subcommittee ("the Committee") at 4:16 p.m. on Friday, September 19, 2014. The meeting was held at the Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

Julie A. Reiskin, Chairman
Gloria Valencia-Weber
Martha L. Minow
John G. Levi, ex officio

Other Board members present:

None

Also attending were:

| | |
|------------------|--------------------------------------------------------------------------------|
| Wendy Rhein | Chief Development Officer |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel, and Corporate Secretary |
| Atitaya Rok | Staff Attorney, Office of Legal Affairs |
| Carol A. Bergman | Director, Office of Government Relations and Public Affairs |
| Carl Rauscher | Director of Media Relations, Office of Government Relations and Public Affairs |
| Julia Kramer | Program Counsel, Office of Compliance and Enforcement & Executive Office |
| Jeffrey Schanz | Inspector General |

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

Chairman Reiskin called the meeting to order.

Mr. Rauscher briefed the committee on the results of press clippings and social media coverage of the 40th anniversary conference. He stated future plans and goals to promote the 40th anniversary and Pro Bono Innovation Fund would be centered on video recordings of the speakers at 40th anniversary conference. Mr. Rauscher answered Committee members' questions.

Mr. Levi and Dean Minow recommended creating a listing of significant quotes made by speakers who attended the 40th anniversary.

Chairman Reiskin suggested including highlights of veterans' issues as a way to increase web activity of an audience other than lawyers, and getting people engaged. The Committee discussed adding non-director board members to the Subcommittee.

Chairman Reiskin invited public comments and received none.

There was no other business to consider.

MOTION

Mr. Levi moved to adjourn the meeting. Professor Valencia-Weber seconded the motion.

VOTE

The motion passed by voice vote.

The Committee meeting adjourned at 5:08 p.m.

2014 Communications Subcommittee Evaluations and 2015 Goals

SUMMARY OF 2014 INSTITUTIONAL ADVANCEMENT COMMUNICATIONS SUBCOMMITTEE EVALUATION RESPONSES

All members strongly agreed that:

- There is alignment between our committee's goals and purposes and the goals of LSC's Strategic Plan.
- Our committee members treat each other with respect and courtesy.
- As a general rule, when I speak I feel listened to and that my comments are valued.

All members agreed that:

- Committee members understand the goals and purpose of our committee; committee members agree on the goals and purpose of the committee.
- There is alignment between our committee's goals and purposes and the actions taken and/or the decisions made by the committee.
- Our committee has adequate resources (for example, staff time and expertise) to support its function.
- The length of our committee meetings is appropriate and respectful of the agenda. We consistently use our meeting time well; issues get the time and attention proportionate to their importance.

Members either strongly agreed or agreed that:

- Our committee membership represents the talents and skills required to fulfill the goals and purposes of the committee. Our committee members come to meetings prepared and ready to contribute.

Mixed responses (2 agreed/1 disagreed) that:

- Our committee has responded effectively and appropriately to issues of immediate concern brought before it; our committee has made significant progress on long-term strategic issues related to its goals and purposes.
- Our committee meetings are held regularly and with appropriate frequency.
- We receive the meeting agenda and materials sufficiently in advance of the meeting to allow for appropriate review and preparation.
- The minutes of our meetings are accurate and reflect the discussion, next steps and/or action items articulated by the members.

The following are direct quotes:

Members liked:

- Learn new and impressive communications outcomes, products of the committee's efforts.
- I like that we have this committee.

Ideas for Improvement:

- Maybe make a priority list of work to be undertaken.
- A clearer focus on exactly what the role of the subcommittee is.
- Really creating a strong communications agenda that goes beyond op-ed and the legal community
- We are loading more work on some already hard working folks. Not clear how long before more staffing is needed.

Future Focus:

- Not sure what we should do for a successful 40th and what follows.
- Develop one or two concrete ways in which the committee can be of use to the Corporation.
- Communications to the general public

Agenda

INSTITUTIONAL ADVANCEMENT COMMITTEE

January 22, 2015

Agenda

OPEN SESSION

1. Approval of agenda
2. Approval of minutes of the Committee's Telephonic Open Session meeting of October 1, 2014
3. Approval of minutes of the Committee's Open Session meeting of October 6, 2014
4. Approval of minutes of the Committee's Telephonic Open Session meeting of December 2, 2014
5. Committee discussion of 2014 committee evaluation and 2015 goals
6. Consider and act on LSC Leaders Council, *Resolution 2015-XXX*
 - Wendy Rhein, Chief Development Officer
7. Communications Subcommittee report
 - Julie Reiskin, Chairman, Communications Subcommittee
 - Carl Rauscher, Director of Communications and Media Relations
8. Public comment
9. Consider and act on other business

CLOSED SESSION

1. Approval of minutes of the Committee's Closed Session meeting of October 6, 2014
2. Approval of minutes of the Committee's Telephonic Closed Session meeting of December 2, 2014
3. Current donor report
4. Consider and act on prospective funders
5. Consider and act on prospective members of Leaders Council
6. Consider and act on adjournment of meeting

**Draft Minutes of the October 1, 2014
Open Session Telephonic Meeting**

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

Open Session

Wednesday, October 1, 2014

DRAFT

Chairman John G. Levi convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Committee ("the Committee") at 5:02 p.m. on Wednesday, October 1, 2014. The meeting was held at the Legal Services Corporation 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

John G. Levi, Chairman
Robert J. Grey, Jr.
Father Pius Pietrzyk
Herbert S. Garten, (Non-Director Member)
Thomas Smegal (Non-Director Member)
Frank B. Strickland (Non-Director Member)

Other Board members present:

Julie A. Reiskin
Gloria Valencia-Weber

Also attending were:

| | |
|------------------|---------------------------------------------------------------------------------------|
| James J. Sandman | President |
| Wendy Rhein | Chief Development Officer |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel, and Corporate Secretary |
| Lynn Jennings | Vice President for Grants Management |
| Jeffrey Schanz | Inspector General |
| Carol Bergman | Director, Office of Government Relations and Public Affairs (GRPA) |
| Carl Rauscher | Director of Media Relations, Office of Government Relations and Public Affairs (GRPA) |
| Julia Kramer | Program Counsel, Office of Compliance and Enforcement, Executive Office |
| Atitaya Rok | Staff Attorney, Office of Legal Affairs |

The following summarizes actions taken by, and presentations made to, the Committee:
Chairman Levi called the meeting to order.

MOTION

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

VOTE

The motion passed by voice vote.

Chairman Levi began the discussion by thanking LSC staff for making the 40th anniversary celebration a great success.

Ms. Rhein briefed the Committee on follow up to the 40th anniversary event, including evaluation of feedback. She provided statistics on the attendance at the 40th anniversary; and stated that additional information would be available after the board meeting in Albany, New York. She answered Committee members' questions. At the suggestion of Father Pius and Ms. Reiskin, Ms. Rhein agreed to create a feedback form for comments about the 40th anniversary event. The feedback form will be posted to the LSC 40th anniversary website along with other links to gather social media feedback.

Ms. Reiskin and Mr. Rauscher briefed the Committee on the first Communications Subcommittee telephonic meeting held on September 19, 2014. They discussed the success of the 40th anniversary event, and the local press it received. Future communications strategies include focus on local press coverage, social media engagement, and planned calendar events. Ms. Reiskin also stated going forward the subcommittee would be setting goals to measure engagement and relationship outcomes and establishing a board of leaders. She answered Committee members' questions.

Chairman Levi invited public comment and received none.

There was no new business to consider.

The closed session meeting was deferred to the next meeting.

MOTION

Father Pius moved to adjourn the meeting. Professor Valencia-Weber seconded the motion.

VOTE

The motion passed by voice vote. The Committee meeting adjourned at 5:42 p.m.

**Draft Minutes of the October 6, 2014
Open Session Meeting**

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

Open Session

Monday, October 6, 2014

DRAFT

Chairman John G. Levi convened an open session meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Committee ("the Committee") at 10:03 a.m. on Monday, October 6, 2014. The meeting was held at the Hilton Albany, 40 Lodge Street, Albany, New York 12207.

The following Committee members were present:

John G. Levi, Chairman
Robert J. Grey, Jr.
Father Pius Pietrzyk
Herbert S. Garten, (Non-Director Member)
Thomas Smegal (Non-Director Member)
Frank B. Strickland (Non-Director Member)

Other Board members present:

Harry J. F. Korrell, III
Victor B. Maddox
Laurie Mikva
Julie A. Reiskin
Gloria Valencia-Weber

Also attending were:

| | |
|------------------|---------------------------------------------------------------------------------------|
| James J. Sandman | President |
| Wendy Rhein | Chief Development Officer |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel, and Corporate Secretary |
| Lynn Jennings | Vice President for Grants Management |
| Jeffrey Schanz | Inspector General |
| Carol Bergman | Director, Office of Government Relations and Public Affairs (GRPA) |
| Carl Rauscher | Director of Media Relations, Office of Government Relations and Public Affairs (GRPA) |
| Julia Kramer | Program Counsel, Office of Compliance and Enforcement, Executive Office |

| | |
|--------------------|--------------------------------------------------------------------------------------------|
| Lora M. Rath | Director, Office of Compliance and Enforcement (OCE) |
| Janet LaBella | Director, Office of Program Performance (OPP) |
| Lillian M. Moy | Executive Director, Legal Aid Society of Northeastern New York |
| David Richardson | Comptroller/Treasurer, Office of Financial and Administrative Services |
| Laurie Tarantowicz | Assistant Inspector General and Legal Counsel, Office of the Inspector General |
| David Maddox | Assistant Inspector General for Management and Evaluation, Office of the Inspector General |
| John Seeba | Assistant Inspector General for Audit, Office of Inspector General |
| Bernie Brady | Travel Coordinator |
| William J. Hawkes | Executive Director, Neighborhood Legal Services |
| C. Kenneth Perri | Executive Director, Legal Assistance of Western New York |
| Don Saunders | National Legal Aid and Defenders Association (NLADA) |
| Robin C. Murphy | National Legal Aid and Defenders Association (NLADA) |
| Lisa Wood | American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID) |

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

Chairman Levi called the meeting to order.

MOTION

Dean Minow moved to approve the agenda. Mr. Keckler seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Dean Minow moved to approve the minutes of the Committee's meeting of July 20, 2014. Mr. Keckler seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Rhein began the discussion by briefing the Committee on topics covered at the telephonic meeting held on October 1, 2014. She also thanked everyone who participated in the 40th anniversary conference.

Ms. Reiskin briefed the Committee on the first Communications Subcommittee telephonic meeting held on September 19, 2014. She stated that future communications strategies include focus on local press coverage, social media engagement, and planned calendar events. Ms. Reiskin also stated the subcommittee would be setting goals to measure engagement, relationship outcomes and establishing a board of leaders. She answered Committee members' questions.

Chairman Levi invited public comment and received none.

There was no new business to consider.

The Committee continued its meeting in close session at 10:20 a.m.

**Draft Minutes of the December 2, 2014
Open Session Telephonic Meeting**

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

Open Session

Tuesday, December 2, 2014

DRAFT

Chairman John G. Levi convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Institutional Advancement Committee ("the Committee") at 4:32 p.m. on Tuesday, December 2, 2014. The meeting was held at the Legal Services Corporation, 3333 K Street, N.W. Washington, D.C. 20007.

The following Committee members were present:

John G. Levi, Chairman
Robert J. Grey, Jr.
Martha L. Minow
Father Pius Pietrzyk, O. P.
Herbert S. Garten (Non-Director Member)
Frank B. Strickland (Non-Director Member)

Other Board members present:

Harry J. F. Korrell, III
Julie A. Reiskin
Gloria Valencia-Weber

Also attending were:

| | |
|------------------|----------------------------------------------------------------------------|
| Wendy Rhein | Chief Development Officer |
| Renee Hickman | Development Associate |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel, and Corporate Secretary |
| Atitaya Rok | Assistant General Counsel, Office of Legal Affairs |
| Carol A. Bergman | Director, Office of Government Relations and Public Affairs |
| Jeffrey Schanz | Inspector General |

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

Chairman Levi called the meeting to order.

MOTION

Dean Minow moved to approve the agenda. Mr. Strickland seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Rhein briefed the Committee on the financial report from the 40th anniversary conference. She reported after paying all expenses, the conference came in under budget. Ms. Rhein answered Committee member's questions.

Ms. Rhein led the discussion on the creation of the proposed LSC Leaders Council, and presented draft documents to the Committee for review. Ms. Rhein also briefed the Committee on current development activities. She answered Committee members' questions.

Chairman Levi invited public comments and received none.

There was no other business to consider.

At 5:01 p.m. the Committee meeting adjourned to executive session.

2014 Committee Evaluations and 2015 Goals

SUMMARY OF 2014 INSTITUTIONAL ADVANCEMENT COMMITTEE EVALUATION RESPONSES

Members either strongly agreed or agreed that:

- Committee members understand the goals and purpose of our committee; committee members agree on the goals and purpose of the committee.
- There is alignment between our committee's goals and purposes and the actions taken and/or the decisions made by the committee.
- There is alignment between our committee's goals and purposes and the goals of LSC's Strategic Plan.
- Our committee has responded effectively and appropriately to issues of immediate concern brought before it; our committee has made significant progress on long-term strategic issues related to its goals and purposes.
- Our committee has adequate resources (for example, staff time and expertise) to support its function.
- Our committee meetings are held regularly and with appropriate frequency.
- The length of our committee meetings is appropriate and respectful of the agenda. We consistently use our meeting time well; issues get the time and attention proportionate to their importance.
- We receive the meeting agenda and materials sufficiently in advance of the meeting to allow for appropriate review and preparation.
- The minutes of our meetings are accurate and reflect the discussion, next steps and/or action items articulated by the members.
- Our committee membership represents the talents and skills required to fulfill the goals and purposes of the committee. Our committee members come to meetings prepared and ready to contribute.
- Our committee members treat each other with respect and courtesy.
- As a general rule, when I speak I feel listened to and that my comments are valued.

The following are direct quotes:

Members liked:

- Timing; organization.
- The free exchange and discussion of ideas.
- Building a new function for the Corporation.
- We are launching an important step for LSC.
- Wendy Rhein's informative and professional reports

Ideas for Improvement:

- The committee is working well. I'm satisfied with our efforts to date. I look forward to continued implementation of the committee's current agenda.
- Appreciation of the possible.

- We sometimes seem to discuss for the sake of discussion; focusing on action would be helpful.
- Now that the 40th anniversary event has concluded, and the Advancement Office in LSC has been running for some time, we should re-evaluate our goals.

Future Focus:

- The committee seems to have a full agenda and should remain committed to the implementations of the committee's agenda.
- Along with the anniversary and new institutions, we should try to strategically seek private grants for new programs.
- Continue to broaden our reach and effort.
- Now that we have been functioning for some time, we should review some of our policies, particularly the donor-approval policy.

Proposed LSC Leaders Council



MEMORANDUM

TO: Board of Directors

FROM: Wendy Rhein
Chief Development Officer

DATE: January 5, 2015

SUBJ: Proposed LSC Leaders Council

This memorandum outlines the purpose and structure of a proposed Legal Services Corporation Leaders Council (Council).

Background

The Legal Services Corporation had a strong history of engaging the expertise and advice of leaders outside of the legal aid field, most recently through panels and presenters at the national quarterly board of directors meetings, the Fiscal Oversight Task Force, the Pro Bono Task Force, and the 40th Anniversary conference. These voices and perspectives expand our reach to new communities, raising awareness of the need to support and expand civil legal aid. As a result of the 40th Anniversary conference and the convergence of audiences and leaders who attended, LSC would now, in response to their encouragement, like to launch a Leaders Council that builds on the networks and relationships the board and leadership have forged throughout the years.

Purpose

The purpose of the LSC Leaders Council (Council) is to raise awareness of LSC, support private fundraising, and increase recognition of the crisis in civil legal aid. By working with and seeking advice from leaders in the private sector, LSC will be able to reach a wider audience and raise awareness of the need for increased support for civil legal aid and the millions of Americans who are eligible but turned away each year because of the lack of resources.

Authority

The Council will serve in an advisory capacity and will be subject to oversight by the Board's Institutional Advancement Committee (IAC). The Council will not be authorized to exercise any powers of the Board. The Council may, from time to time, make recommendations to the IAC, but such recommendations will have no legal or binding effect on the Institutional Advancement Committee or LSC. Council recommendations, however, may influence the course of LSC's development work.

Structure

The Council will be chaired by two members who will convene meetings of the Council in coordination with and with the approval of the Chair of the IAC. The Council will meet annually once in person and twice by telephone. The in-person meeting will be in conjunction with one of the Board's quarterly meetings. Special meetings may be called from time to time.

Composition

The Council will consist of leaders in business, law, academia and other disciplines.

Selection Process

The IAC will receive Council member nominations, vet nominees based on the attached selection criteria, and make recommendations to the Board for approval. Members will be appointed for their leadership, expertise, interest, wisdom, and networks.

Expectations and Responsibilities

Council members will lend their names to support LSC on letterhead, websites, and in printed materials. Council members will provide experience, insight, strategic thinking, innovative ideas, networking, leadership, mentoring, and support. Council members may occasionally be asked to speak on behalf of LSC at national, regional, or local events. Council members may be asked to write opinion pieces for electronic and print platforms supporting civil legal aid.

Staffing/Support

The Council will be staffed by LSC's Development Office.

Term

Council members will serve one-, two-, or three-year terms. A Council member may be re-nominated for additional two-year terms if the IAC, LSC President, and the Council member consider the service mutually beneficial.

Leaders Council Member Selection Process

Individuals must be nominated by members of the LSC board of directors and management. Nominations must be sent to LSC's Development Office to complete the Leaders Council Member Nomination Form (Nomination Form). The Development Office will provide completed Nomination Forms to the Institutional Advancement Committee for review and consideration. Based on the Nomination Form and any other relevant information, the IAC will recommend nominees meeting the selection criteria below to the Board for approval. Board-approved nominees will be invited by the Chairman of the Board to serve on the Council.

Selection Criteria:

- Have leadership experience in business, professional, or volunteer positions that will enable him or her to provide useful insights into various matters addressed by the IAC.
- Demonstrate high ethical standards and integrity in his or her personal and public conduct.
- Have experience in and knowledge of (or willingness to learn about) civil legal aid sufficient to enable the individual to be an effective Council member.

Leaders Council Member Nomination Form

Name of Nominee:

Occupation:

Title:

Company/Organization:

Mailing Address:

Phone:

Email:

Professional/Organizational Affiliations:

Volunteer/Community Involvement:

What skills, leadership experience, and interests would the nominee bring to the Council?

RESOLUTION

ESTABLISHING THE LSC LEADERS COUNCIL

WHEREAS, the Legal Services Corporation (“LSC” or Corporation”) has a history of engaging the expertise and advice of leaders outside of the legal aid field to hear different voices and obtain diverse perspectives in an effort to expand LSC’s reach to new communities; and

WHEREAS, the LSC Board of Directors (“Board”) desires to work with and seek advice from leaders in business, law, academia, and other disciplines to enable LSC to reach a wider audience and raise awareness of the need to support and expand civil legal aid;

NOW, THEREFORE, BE IT RESOLVED THAT, the LSC Board of Directors hereby establishes the LSC Leaders Council for the purpose of raising awareness of the Corporation, supporting private fundraising efforts, and increasing awareness of the crisis in civil legal aid;

BE IT FURTHER RESOLVED THAT, the LSC Leaders Council will serve in an advisory capacity subject to oversight by the Board’s Institutional Advancement Committee, and it has no authority to exercise any powers of the Board;

BE IT FURTHER RESOLVED THAT, the LSC Leaders Council will be structured in accordance with Attachment A, *LSC Leaders Council Charter*; and

BE IT FURTHER RESOLVED THAT, membership of the LSC Leaders Council will be through a nomination and selection process in accordance Attachment B, *Leaders Council Member Selection Process*.

Adopted by the Board of Directors
On January 24, 2015

John G. Levi
Chairman

Attest:

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

ATTACHMENT A

LSC Leaders Council Charter

Purpose

The purpose of the LSC Leaders Council (Council) is to raise awareness of LSC, support private fundraising, and increase awareness of the crisis in civil legal aid. By working with and seeking advice from leaders in the private sector, LSC will be able to reach a wider audience and raise awareness of the need for increased support for civil legal aid and the millions of Americans who are eligible but turned away each year due to lack of resources.

Authority

The Council serves in an advisory capacity subject to oversight by the Board's Institutional Advancement Committee (IAC). The Council is not authorized to exercise any powers of the Board. The Council may, from time to time, make recommendations to the IAC, but such recommendations will have no legal or binding effect upon LSC. Council recommendations, however, may influence the course of LSC's development work.

Structure

The Council will be chaired by two members who will convene meetings of the Council in coordination with the Chairman of the IAC. The Council will meet annually once in-person and twice by telephone. The in-person meeting will be in conjunction with one of the Board's quarterly meetings. Special meetings may be called from time to time.

Composition

The Council will consist of leaders in business, law, academia and other disciplines.

Selection Process

Council members will serve at the invitation of the Chair of the Board of Directors. The IAC will receive Council member nominations, vet nominees based on the attached selection criteria, and make recommendations to the Board for approval. Members will be appointed for their leadership, expertise, wisdom, and network, which they can use to further the effectiveness and reputation of LSC.

Expectations and Responsibilities

Council members will lend their names to support LSC on letterhead, websites, and in printed materials. Council members will provide experience, insight, strategic thinking, innovative ideas, networking, leadership, mentoring, and support. Council members will occasionally be asked to speak on behalf of LSC at national, regional, or local events. Council members may be asked to write opinion pieces for electronic and print platforms supporting civil legal aid. Council members may also be asked to attend educational meetings with Members of Congress as appropriate.

Staffing/Support

The Council will be staffed by LSC's Development Office.

Term

Council members will serve one-, two-, or three-year terms. A Council member may be re-nominated for additional two-year terms if the IAC, LSC President, and the Council member consider the service mutually beneficial.

ATTACHMENT B

LSC Leaders Council Member Selection Process

Individuals must be nominated by members of the LSC Board of Directors and LSC management. Nominations must be sent to LSC's Development Office to complete the Leaders Council Member Nomination Form (Nomination Form). The Development Office will provide Nomination Forms to the Institutional Advancement Committee for review and consideration. Based on the Nomination Form, the IAC will recommend nominees meeting the selection criteria below to the Board for approval. Board-approved nominees will be invited by the Chairman of the Board to serve as a Council member.

Selection Criteria:

- Demonstrate high ethical standards and integrity in his or her personal and public conduct.
- Possess experience in mission, business, professional, or volunteer positions that will enable him or her to provide useful insights into various matters addressed by the IAC.
- Possess experience in and knowledge of (or willingness and ability to obtain knowledge of) the civil legal aid or development industry sufficient to enable the individual to be an effective Council member.

Leaders Council Member Nomination Form

Name of Nominee:

Phone:

Email:

Occupation:

Title:

Company/Organization:

Company Address:

Professional/Organizational Affiliations:

Volunteer/Community Involvement:

Skills, experience, and interests would the nominee bring to the Council?

Operations & Regulations Committee

Agenda

OPERATIONS & REGULATIONS COMMITTEE

January 22, 2015

Agenda

OPEN SESSION

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting on October 5, 2014
3. Discussion of Committee's evaluations for 2014 and the Committee's goals for 2015
4. Consider and act on Management's report on implementation of the Strategic Plan 2012-2016, as provided by section VI (3) of the Committee Charter
 - Jim Sandman, LSC President
5. Update on Rulemaking Agenda: 45 CFR Part 1628—Fund Balances; 45 CFR Part 1603—State Advisory Councils
 - Ron Flagg, General Counsel
 - Stefanie Davis, Assistant General Counsel
 - Mark Freedman, Senior Assistant General Counsel
6. Consider and act on Notice of Proposed Rulemaking for 45 CFR Part 1640—Application of Federal Law to LSC Recipients
 - Ron Flagg, General Counsel
 - Stefanie Davis, Assistant General Counsel
 - Laurie Tarantowicz, Assistant Inspector General and Legal Counsel
 - Public comment
7. Consider and act on updating population data for grants to serve migratory and other farmworkers
 - Ron Flagg, General Counsel
 - Bristow Hardin, Program Analyst

8. Other public comment
9. Consider and act on other business
10. Consider and act on adjournment of meeting

**Draft Minutes of the October 5, 2014
Open Session Meeting**

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

Open Session

Sunday, October 5, 2014

DRAFT

Committee Chairman Charles N.W. Keckler convened an open session meeting of the Legal Services Corporation's ("LSC") Operations and Regulations Committee ("the Committee") at 3:30 p.m. on Sunday, October 5, 2014. The meeting was held at the Hilton Albany, 40 Lodge Street, Albany, New York 12207.

The following Committee members were present:

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

Other Board members present:

Victor B. Maddox
Father Pius Pietrzyk
Julie A. Reiskin
Gloria Valencia-Weber

Also attending were:

| | |
|---------------------|------------------------------------------------------------------------------------------|
| James J. Sandman | President |
| Lynn Jennings | Vice President for Grants Management |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel, and Corporate Secretary |
| Mark Freedman | Senior Assistant General Counsel, Office of Legal Affairs (OLA), (by telephone) |
| Stefanie Davis | Assistant General Counsel, Office of Legal Affairs (OLA), |
| David L. Richardson | Comptroller and Treasurer |
| Carol Bergman | Director, Office of Government Relations and Public Affairs (GRPA) |
| Carl Rauscher | Director of Media Relations, Office of Government Relations and Public Affairs (GRPA) |
| Wendy Long | Executive Assistant, Office of Government Relations and Public Affairs (GRPA) |
| Marcos Navarro | Design Director, Office of Government Relations and Public Affairs (GRPA) |

| | |
|---------------------|-----------------------------------------------------------------------------------------------|
| Julia Kramer | Program Counsel, Office of Compliance and Enforcement, Executive Office |
| Wendy Rhein | Chief Development Officer |
| Jeffrey E. Schanz | Inspector General |
| Laurie Tarantowicz | Assistant Inspector General and Legal Counsel, Office of the Inspector General |
| David Maddox | Assistant Inspector General for Management and Evaluation, Office of the Inspector General |
| John Seeba | Assistant Inspector General for Audit, Office of Inspector General |
| Lora M. Rath | Director, Office of Compliance and Enforcement (OCE) |
| Janet LaBella | Director, Office of Program Performance (OPP) |
| Bernie Brady | LSC Travel Coordinator |
| Herbert S. Garten | Non-Director Member, Institutional Advancement Committee |
| William J. Hawkes | Executive Director, Neighborhood Legal Services |
| C. Kenneth Perri | Executive Director, Legal Assistance of Western New York |
| Paul J. Lupia | Executive Director, Legal Aid Society of Mid-New York |
| Barbara Finkelstein | Executive Director, Legal Services of the Hudson Valley |
| Jeff Seigel | Nassau/Suffolk Law Services |
| Lillian M. Moy | Executive Director, Executive Director, Legal Aid Society of Northeastern New York |
| Michele Sleight | Legal Aid Society of Northeastern New York |
| Wendy Wahlberg | Legal Aid Society of Northeastern New York |
| Deb Collura | Legal Aid Society of Northeastern New York |
| Anne Malak | Legal Aid Society of Northeastern New York |
| Deanne Grimaldi | Legal Aid Society of Northeastern New York |
| Robert Romaker | Legal Aid Society of Northeastern New York |
| Robert Magee | Legal Aid Society of Northeastern New York |
| Don Saunders | National Legal Aid and Defenders Association (NLADA) |
| Robin C. Murphy | National Legal Aid and Defenders Association (NLADA) |
| Lisa Wood | American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID) |

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

Committee Chairman Keckler noted the presence of a quorum and called the meeting to order.

MOTION

Mr. Grey moved to approve the agenda. Mr. Korrell seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Mr. Grey moved to approve the minutes of the Committee meetings of July 20, 2014. Mr. Korrell seconded the motion.

VOTE

The motion passed by voice vote.

Mr. Flagg reported on the status of the update of population data for grants to serve migratory and other agricultural workers. Mr. Flagg answered Committee members' questions.

Next, Ms. Davis and Mr. Flagg provided a status report on the rulemaking agenda regarding 45 CFR Part 1610 and 45 CFR Part 1627, Transfers and Sub grants, 45 CFR Part 1640, Federal Law relating to proper use of Federal funds, and 45 CFR Part 1630, Property Acquisition and Management Manual. Ms. Davis and Mr. Flagg answered Committee members' questions.

Ms. Davis and Mr. Flagg updated the Committee on the proposed final rule amending 45 CFR Part 1614, Private Attorney Involvement, and answered Committee members' questions. Committee Chairman Keckler invited public comment on additional amendments to Part 1614 rule. The Committee received comments from Lisa Wood, American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID), and Robin Murphy, National Legal Aid and Defenders Association (NLADA).

MOTION

Mr. Grey moved to recommend approval of the proposed final rule with Committee amendments to the Board. Ms. Mikva seconded the motion.

VOTE

The motion passed by voice vote.

Mr. Grey commended Chairman Keckler for building a consensus with regard to the final rule. There was no other business to consider.

MOTION

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

VOTE

The motion passed by voice vote.

The meeting of the Committee adjourned at 5:32 p.m.

2014 Committee Evaluations and 2015 Goals

SUMMARY OF 2014 OPERATIONS AND REGULATIONS COMMITTEE EVALUATION RESPONSES

All members strongly agreed that:

- Committee members understand the goals and purpose of our committee; committee members agree on the goals and purpose of the committee.
- There is alignment between our committee's goals and purposes and the actions taken and/or the decisions made by the committee.
- Our committee has adequate resources (for example, staff time and expertise) to support its function.

Members either strongly agreed or agreed that:

- There is alignment between our committee's goals and purposes and the goals of LSC's Strategic Plan.
- Our committee has responded effectively and appropriately to issues of immediate concern brought before it; our committee has made significant progress on long-term strategic issues related to its goals and purposes.
- Our committee meetings are held regularly and with appropriate frequency.
- The length of our committee meetings is appropriate and respectful of the agenda. We consistently use our meeting time well; issues get the time and attention proportionate to their importance.
- We receive the meeting agenda and materials sufficiently in advance of the meeting to allow for appropriate review and preparation.
- The minutes of our meetings are accurate and reflect the discussion, next steps and/or action items articulated by the members.
- Our committee membership represents the talents and skills required to fulfill the goals and purposes of the committee. Our committee members come to meetings prepared and ready to contribute.
- Our committee members treat each other with respect and courtesy.
- As a general rule, when I speak I feel listened to and that my comments are valued.

The following are direct quotes:

Members liked:

- We deal with real problems and generate positive change.
- Well run meetings; the sometimes difficult issues are handled respectfully and resolved appropriately.
- Feeling of nonpartisanship.

Ideas for Improvement:

- A broader discussion of ends as well as means.

- I think it would help to review soon the goals in the strategic plan that fall within the scope of our committee charter and to evaluate the Corporation's progress toward those specific goals.
- Although we are effective on short and medium term problems, we need to at least consider and evaluate systems in place for decades for possible regulatory action that could enhance Strategic Goal One. These relate, inter alia, to the delivery system (exclusive reliance on specialized nonprofits), data collection (such as replacement or supplement to counting "cases" as output), and possible flexibility for grantees to generate earned revenue. A possible mechanism is adjustment of the 12.5% PAI share as incentive.

Future Focus:

- We have a regulatory agenda and should complete it. However, we need to develop ideas and evidence for considering broader actions in delivery systems, timekeeping and program integrity.
- An assessment of progress of the Corporation toward specific goals in the strategic plan that fall within the scope of the Committee's responsibilities under its charter.
- Elimination of unnecessary and not mandated restrictions on grantees.

Strategic Plan 2012 - 2016 Implementation Memo

ACTIONS TO IMPLEMENT LSC'S STRATEGIC PLAN
ANNUAL REPORT TO THE OPERATIONS AND REGULATIONS COMMITTEE
JANUARY 2015

The following is an overview of actions LSC has undertaken to date to implement the three goals and related initiatives identified in LSC's 2012-2016 Strategic Plan.

Goal No. 1: Maximize the Availability, Quality, and Effectiveness of Legal Services
(Strategic Plan pp. 5-11)

Initiative One: Identify, promote, and spread best practices in meeting the civil legal needs of the poor

- 1) Highlighted best practices at LSC's quarterly board meetings, White House forums, and 40th Anniversary events. Captured presentations on video, posted links to them on LSC's website, on social media, and included links in *LSC Updates*.
- 2) Updated, improved, and added content to the "LSC Resource Information" portion of LSC website (<http://lri.lsc.gov/>), which includes many examples of best practices from LSC grantees and other sources. Recent updates include overviews of Geographical Information Systems (GIS) mapping and organizing data through the use of Google Fusion Tables; these were also subjects of webinars for LSC grantees.
- 3) Expanded LSC's role and presence at the largest conferences for legal aid providers – including the Equal Justice Conference, the annual conference of the National Legal Aid and Defenders Association (NLADA), and the Management Information Exchange (MIE) conference. For example, in 2014, the Office of Compliance and Enforcement (OCE) made three presentations at the NLADA conference, including an overview of the purpose and scope of OCE reviews, recent regulatory and fiscal findings, and Case Service Reports. Similarly, the Office of Program Performance (OPP) staff presented a number of sessions at national conferences, including on technology tips, rural pro bono strategies, innovations in legal services, and rural service of delivery.
- 4) Successfully planned and executed panel discussions at LSC's 40th Anniversary Conference on best practices in non-profit leadership and management (both within LSC grantee community and in the broader non-profit world).
- 5) Revised Capability Assessment Visit Manual to improve and standardize procedures for assessing grant applicants in competitions.

ACTIONS TO IMPLEMENT LSC'S STRATEGIC PLAN
ANNUAL REPORT TO THE OPERATIONS AND REGULATIONS COMMITTEE
JANUARY 2015

- 6) Updated "Technology Baselines" for LSC grantees – that is, LSC's recommendations for the basic technology that all grantees should have. New Base Lines discussed at 2015 TIG Conference.
- 7) Used Technology Initiative Grants (TIGs) to replicate and expand successful technology projects developed with prior TIGs.
- 8) In 2014, the Office of Program Performance (OPP) conducted 36 onsite grantee visits. Through these visits, OPP educated grantees about best practices and provided practical advice about improving legal practice and program operations. OPP followed up on recommendations from prior visits through the grant application process and through regular contact with grantees.

Initiative Two: Develop meaningful performance standards and metrics

- 1) Completed a business process analysis of LSC's collection and use of all information collected from grantees, which will facilitate the development of organizational performance standards and metrics and the standardization of LSC processes.
- 2) Office of Information Technology (OIT) developed plans for a new centralized data and document repository that will be used for enhanced analysis of and reporting on grantee performance.
- 3) Continued progress on the data outcomes collection and analysis project funded by the Public Welfare Foundation. Expanded an inventory of existing outcomes measurement tools used in legal aid to identify best practices. Reported findings from comprehensive survey of LSC grantees regarding their current and desired use of data to improve service delivery, to enhance program management, and to build an effective case for funding. Issued report to summarize project findings to date. Currently developing a tool-kit that grantees will be able to customize for their own operations and needs.
- 4) Improved LSC's process for timely and effectively evaluating and responding to complaints relating to grantee services. OCE developed a set of standard complaint response letters to allow for more standardized and timely responses to complainants. OCE also developed a survey that complainants are asked to complete after a complaint has been closed to provide feedback on the process to determine what, if any, aspects of the complaint process OCE should consider changing. This process will continue in 2015, with additional improvements and revisions to the complaint process and related survey.

ACTIONS TO IMPLEMENT LSC'S STRATEGIC PLAN
ANNUAL REPORT TO THE OPERATIONS AND REGULATIONS COMMITTEE
JANUARY 2015

- 5) Developed and implemented performance standards for LSC staff as part of an updated and expanded performance management system.
- 6) Updated comprehensive, multi-year analysis of Grant Activity Reports (begun in 2013), allowing comparisons of cases closed by each LSC grantee against median for all grantees and against results for each other grantee.

Initiative Three: Provide legal practice and operational support to improve measurably the quality of civil legal services to the poor

- 1) Continued to use program visits by OPP to educate grantees about best practices and to provide practical advice about improving legal practice and program operations.
- 2) Expanded collection of useful practice and operational tips on the LSC Resource Information section of LSC's website.
- 3) Continued to host and facilitate quarterly webinars featuring staff of the Federal Trade Commission's Bureau of Consumer Protection. The webinars, developed for LSC grantees, provide substantive training on consumer protection issues relevant to legal aid programs and identify free resources for grantees to access. Participation in the webinars has grown from 44 in February 2013 to typically more than 125 participants (with a high of 178 participants for the most recent webinar in October 2014).
- 4) Used the competitive TIG program to promote improvements in practice and service delivery. In 2014 LSC awarded 38 TIG grants. For example:

Two projects funded through LSC's TIG program recently were named finalists for the Hague Institute for the Internationalisation of Law's (Hiil's) 2014 Innovating Justice Awards. These awards encourage innovations across the justice sector by promoting successful ideas and initiatives to legal professionals around the world.

Statewide Legal Services of Connecticut's Online Advocacy Simulation for Self-Represented Parties was the top online vote-getter in Hiil's "Innovative Ideas" category. The Connecticut project uses gaming technology to provide self-represented litigants with advocacy experience before going to court and attempting to meet their own legal needs. The project was also recently the subject of an in-depth feature in the *Hartford Courant*. Connecticut is working closely with NuLawLab at Northeastern University School of Law on this project.

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The A2J Author software application (funded through a partnership with Idaho Legal Aid Services) is a finalist in Hiil's "Successful Innovations" category. LSC has funded A2J Author in multiple TIG cycles, and nearly 2.5 million unrepresented people have now used interviews designed in A2J to create court forms and other legal documents. The current A2J TIGs focus on transitioning the software to an HTML5/JavaScript cloud application and incorporating simple native document assembly within the tool.

LSC highlighted these initiatives at the 2015 TIG Conference.

- 5) Continued to add content to LSC's Tech Blog, providing a channel for technology leadership in the legal services community.
- 6) Developed a competitive leadership development grant program to enhance quality of grantee leadership. Program will be rolled out in early 2015.

Other Activities to Promote Goal 1:

- 1) Closed out all Government Accountability Office recommendations, eliminating a potential impediment to LSC funding. This is the first time in seven years that LSC has not been operating with open GAO recommendations.
- 2) Initiated the competitive Pro Bono Innovation Fund (PBIF) grant program, awarding grants to 11 programs.
- 3) Initiated the Midwest Legal Disaster Coordination Project with private funding. Reviewed five proposals and made two awards in Iowa and Nebraska. Staff continued to monitor grants made with funds for relief from Hurricane Sandy.
- 4) Continued expanding outreach to Members of Congress (MOCs) to increase prospects for LSC's funding. In 2014, 51 MOCs provided quotes for LSC press releases regarding TIG and PBIF grants and 40th Anniversary statements for the Congressional Record. Seven MOCs contributed multiple quotes. Likewise, in 2014, seven MOCs and 60 congressional staff members attended LSC events (Board meetings, White House Forum, 40th Anniversary conference, and press conferences).
- 5) Made additional improvements to LSC's formal budget request to Congress, LSC's Annual Report, and LSC's By the Numbers (formerly LSC's Fact Book) to make a stronger case for funding.

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- 6) OCE and OLA developed and implemented a training program on the requirements of 45 CFR Part 1612 (Restrictions on Lobbying and Certain Other Activities). This training was provided to OCE staff, one LSC grantee, and to an audience at the Annual NLADA Conference in November.
- 7) Conducted six Executive Director Orientation (EDO) sessions (combination of webinars and in person). During 2012 OCE conducted four sessions (two in person and two via webinar), and during 2013 OCE conducted ten sessions (one in person and nine via webinar).
- 8) The Office of Legal Affairs (OLA) revised Part 1614 (Private Attorney Involvement (PAI) Regulations), Part 1626 (restrictions on legal assistance to aliens), and Part 1613 (criminal representation in tribal courts); developed a rulemaking agenda; and implemented the new internal risk management committee, including enhanced reporting to the Board on risk management.
- 9) In 2014, LSC's Loan Repayment Assistance Program (LRAP) received 241 applications (new and renewal) from attorneys at 78 grantee offices in 40 states and Puerto Rico. The average law school debt for first-year applicants was nearly \$148,000. LSC provided loan repayment assistance to 181 of those 241 applicants, including 74 new LRAP participants.
- 10) OIT developed a new "Find Legal Aid" application for LSC's website that incorporates maps and simplifies searching. The new application was supplemented by a text messaging version developed by Frontline SMS.
- 11) Continued to improve OCE's report-writing process for onsite compliance reviews to provide more timely, clear, and effective communication of findings and required corrective actions. Engaged consultants to revise OCE's report structure to allow for more timely and streamlined reporting of OCE findings. Additionally, engaged consultants to evaluate OCE's onsite review processes and to provide recommendations for standardization and adoption of best practices.
- 12) Provided training on report writing and interview skills to a significant number of OPP program counsel. Program counsel held an all-day session to develop improvements for Program Quality Visit reports and related communications. Report templates and protocols were developed.
- 13) OPP Program Counsel worked with four programs that needed special assistance with improving quality and followed up on recommendations from program quality visits.

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Goal No. 2: Become a Leading Voice for Access to Justice and Quality Legal Assistance in the United States (Strategic Plan pp. 11-15)

Initiative One: Provide a comprehensive communications program around a compelling message

- 1) Planned, hosted, and obtained media coverage of successful three-day conference attended by more than 500 people (including senior government officials and leaders from the business, academic, and non-profit sectors) to mark LSC's 40th Anniversary. Developed and managed list of more than 4,000 contacts for the conference and development database, coordinated outreach and logistics for more than 100 conference speakers, and drafted program catalog.
- 2) Continued active participation in Voices for Civil Justice, the "communications hub" funded by the Public Welfare Foundation and the Kresge Foundation, which is using survey research and communications expertise to expand public awareness of the role and importance of civil legal aid in the United States. LSC President serves on the hub's advisory committee. This project is a collaboration with a number of stakeholders, including the National Center for State Courts, the U.S. Department of Justice's Access to Justice Initiative, and the American Bar Association.
- 3) Organized a well-attended briefing by State Supreme Court Justices in a House of Representatives hearing room to educate congressional staff about the impact of pro se litigants on courts.
- 4) Expanded media coverage in both national and local markets. Targeted press releases to local markets to highlight, for example, TIG awards and Pro Bono Innovation Fund awards. Placed grantee op-eds in 10 local papers and legal publications.
- 5) Recent media highlights include: LSC President was featured in *New York Times* story on civil legal aid that touched on many of LSC's key message points; Chairman was interviewed by *American Lawyer* editor; robust media coverage of the 40th Anniversary conference; substantial coverage of Board meeting panels and awards (particularly Albany and Des Moines); and regular coverage in *National Law Journal* and other legal papers.
- 6) The Chairman and the President of LSC continued to seek and accept opportunities to speak to multiple audiences – such as law students, law firms, bar associations, community leaders, and state access-to-justice convenings.

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- 7) Hired GRPA Communications Manager and Writer to improve consistency of messaging and tone across all of LSC's communications outlets.
- 8) Continued refinements to LSC's communications strategy. Further revised the annual budget submission to Congress, LSC's Annual Report (more fully multimedia), LSC's By the Numbers (formerly LSC Fact Book), and *LSC Updates* (including embedding videos and multiple links) to present a compelling case for legal aid and to communicate LSC's commitment to innovation, collaboration, strong management, and prudent stewardship of public funds. Continued upgrades to publication design to make them more user-friendly.
- 9) Further expanded the use of video, charts, graphics, and social media in LSC's communications to promote LSC activity and practices.
- 10) Used social media to amplify LSC's message. Created Facebook page with more than 500 followers. Twitter followers grew from 1,200 at beginning of 2013 to more than 2,600 at end of 2013, and more than 3,700 currently. Likewise, enhanced video capacity to record Board forums affords access to media, grantees, and equal justice community. This made robust coverage of White House forum possible, even though it was closed to the press.
- 11) Grew LSC's "story bank" documenting grantees' successes in serving clients from ten at beginning of 2013 to more than 1,000 stories, organized by state to facilitate targeted communications with local connections. Posted more than 100 of the most compelling stories to website, arranged by state. In the process of adding new stories and arranging all by Congressional district.
- 12) Re-designing and expanding capabilities of LSC's website to integrate all four websites and create more user-friendly taxonomy. Developed new website pages to focus on 40th Anniversary events, donations and development, Best Practices, and Pro Bono Task Force.

Initiative Two: Build a business case for funding civil legal services

- 1) Expanded library of studies of the economic benefits of legal aid for communities and for government. Cited the results of these studies in LSC's budget request to Congress for FY2015 (pp. 2-3)
- 2) LSC President participated in meetings of private foundations convened by the Public Welfare Foundation to explain the benefits of civil legal aid and was a panelist at the annual meeting of the Council on Foundations.
- 3) Used surveys of grantees to obtain evidence of the impact of funding reductions on client service. Publicized the results and used them in support of funding requests.

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Initiative Three: Recruit and enlist new messengers and sources of funds to increase private support for civil legal services

- 1) Developed a comprehensive case statement for private funding for LSC.
- 2) Secured contributions or pledges of more than \$2.9 million from 18 leading law firms. Introduced naming opportunities for projects, and conducted first year-end personal appeal. Developed specific project outlines for funding (e.g., fellowships, technology, leadership training).
- 3) Secured \$65,500 in sponsorships for the 40th Anniversary conference.
- 4) Secured a \$1.2 million 2-year grant from the Margaret Cargill Foundation for disaster preparedness and response. This grant substantially expands LSC's ability to assist LSC grantees and their clients to respond to disasters. By way of comparison, in 2013, as the result of the enactment of the Hurricane Sandy Disaster Relief Appropriations Act, LSC established a grant program using appropriated funds and distributed \$874,041 to four LSC grantees. LSC made additional Sandy-related grants totaling \$295,379 using existing disaster relief resources.
- 5) Continued convening panels of justices and judges to address access to justice issues at quarterly Board meetings. Panel videos posted on LSC's website and highlighted in *LSC Updates*. Continued working with individual judges on access to justice issues. Promptly provided information on messaging to state Chief Judges and Justices, as requested.
- 6) Continued working with the Conference of Chief Justices and the National Association of Women Judges to encourage judges to address the access to justice crisis in America.
- 7) Continued work with the Public Welfare Foundation to encourage private foundations to provide support for civil legal aid.
- 8) Planned and executed donor cultivation events and receptions in Austin and New York City.
- 9) Secured six exhibitors and sponsors for the 2015 TIG conference, doubling the 2014 number.
- 10) Identified former and current Members of Congress to be included in events (e.g., Board meetings, White House Forum, 40th Anniversary events).

Initiative Four: Institutional advancement and grantee development support

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- 1) Significantly expanded development and institutional advancement activities. Hired Development Associate to support Chief Development Officer. Coordinated activities of Institutional Advancement Committee (IAC) and IAC's Communications Subcommittee.
- 2) Launched <http://lsc40.lsc.gov/> campaign website, wrote web text for all pages, and integrated online giving into <http://www.lsc.gov/> and <http://lsc40.lsc.gov/>
- 3) Recruited and expanded list of messengers for civil legal aid through the 40th Anniversary conference and related cultivation activities. Continued to identify candidates for Leaders Council, honorary committees, and advisory groups.
- 4) Coordinated and executed more than 40 development meetings, including major cultivation events in Austin and New York City (80+ attendees).
- 5) Created and implemented a database for development purposes to track prospects, interactions, and gifts. Expanded database of donor prospects, adding more than 120 approved prospects. Integrated development prospects into Board meeting invitation lists for all 2014 meetings.
- 6) Registered LSC as an approved fundraiser in states requiring registration.
- 7) Continued developing policies and procedures for gift acceptance and related activities.

Initiative Five: Enhanced Strategic Collaboration

- 1) Continued working with the Department of Justice's Access to Justice Initiative and the Legal Aid Interagency Roundtable to expand awareness of civil legal aid in federal government agencies and to increase sources of funding for legal aid using grants by federal agencies that serve clients of legal aid programs. LSC President is a member of the roundtable.
- 2) Continued strong working relationships with state IOLTA programs and state bar foundations funding civil legal aid. LSC President participated in and spoke at biannual meetings of IOLTA funders and state bar foundations. Consulted with state funders on data collection and reporting, grant applications, and legal aid program oversight.
- 3) Collaborated regularly with the American Bar Association's leadership, Standing Committee on Legal Aid and Indigent Defendants, Standing Committee on Pro Bono and Public Service, and Resource Center for Access to Justice Initiatives.
- 4) LSC President participated in and spoke at multiple annual convenings of state access to justice leaders.

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- 5) Coordinated regularly with the Conference of Chief Justices.
- 6) Participated actively in Voices for Civil Justice, the communications hub.
- 7) Established new relationships with private foundations interested in funding civil legal aid.
- 8) Established and expanded relationships with private foundations funding civil legal aid.

Goal No. 3: Ensure Superior Fiscal Management (Strategic Plan pp. 15-17)

- 1) LSC received a clean audit of its FY2014 annual financial statements with no management letter.
- 2) Revitalized the Technical Assistance Review (TAR) process. TARs are provided to LSC grantees that have not had a full OCE review recently, as well as grantees that have undergone leadership transitions or are experiencing difficulties. TARs focus on subjects such as intake, accurate case tracking and reporting, segregation of fiscal duties, bank reconciliations, and complying with lobbying and other restrictions on activities. Each TAR includes customized feedback and/or training at the end of each review day. During 2014, LSC conducted 3 TARs; by comparison, in both 2012 and 2013, LSC conducted one TAR per year.
- 3) Conducted training on LSC's budgeting process for new and existing budget-responsible staff members to help them better understand the process and their responsibilities.
- 4) OCE hired a Deputy Director for Fiscal Compliance in order to improve and standardize fiscal oversight functions. The new Deputy Director for Fiscal Compliance met with each OCE Fiscal Compliance Analyst (FCA) to understand the various tasks and responsibilities performed by OCE fiscal staff and identify opportunities to improve various fiscal compliance-related work processes. Additionally, the Deputy Director for Fiscal Compliance will continue to collaborate with the OIG to streamline and implement procedures that enhance the audited financial statement review and A-50 referral processes.
- 5) OCE continued to revise and improve upon the Fiscal Compliance Analysts' (FCA) review of grantees' grant applications during the LSC Grants competition process. The FCAs revised the fiscal application and corresponding evaluation guide and scoring system. The Deputy Director for Fiscal Compliance and FCAs will continue to work on the development of grant application questions and on the review and assessment of answers and materials provided during that process. OCE interviewed candidates and continues to actively recruit to fill two Fiscal Compliance Analyst (FCA) vacancies.

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- 6) Under leadership of Vice President for Grants Management (VPGM), the Directors OPP and OCE continue to focus on maximizing communication, coordination, and cooperation. VPGM, OPP, and OCE meet monthly to share information.
- 7) LSC's President and the Inspector General meet every two weeks. OCE, along with OPP and the VP for Grants Management, continued to hold monthly meetings with representatives of the OIG staff to discuss issues of concern and share information.
- 8) Further improved sharing of information between OIG and management that is relevant to grant applications, grant terms, and special grant conditions.
- 9) Continued to improve sharing of information between management and OIG to expedite investigations, avoid duplicative work, and provide early notice to management of potential problems with grantees.
- 10) OCE, along with members of the OIG staff, continued to make quarterly presentations to the Audit Committee of the LSC Board of Directors regarding fiscal oversight and communications between OIG and LSC management. Improved quantity and quality of reporting to the Audit Committee.
- 11) Office of Information Technology worked to implement new software to ensure that all LSC staff have access to LSC information and documentation relating to grantees.
- 12) Revised the Whistleblower, Equal Employment Opportunity (EEO), and other employee policies and consolidated on LSC eWeb (intraweb).
- 13) Implemented new internal Risk Management Committee, including enhanced reporting to the Board on risk management.
- 14) Development Unit initiated quarterly meetings with OFAS to reconcile gift records.
- 15) Continued using outside reviewers in the grant application process to ensure objectivity in the process.
- 16) Continued rotating review of grant applications by Program Counsel to ensure objectivity in the process.
- 17) Continued the use of special grant conditions and short-term funding to address fiscal concerns.
- 18) Continued planning overhaul of grants management system, including comprehensive business process analysis, to improve access to and management of all information LSC maintains on grantees. Expert to choose new grants management software in mid-2015.

Update on Rulemaking Agenda



OFFICE OF LEGAL AFFAIRS

To: Operations and Regulations Committee

From: Ronald S. Flagg, Vice President and General Counsel
Mark Freedman, Senior Assistant General Counsel
Stefanie K. Davis, Assistant General Counsel
Peter Karalis, OLA Post-Graduate Fellow

Re: Proposed Revisions to 45 C.F.R. Part 1628

Date: January 9, 2014

LSC regulations limit the ability of recipients to carry over LSC funds that remain unused at the end of the fiscal year. 45 C.F.R. Part 1628. A recipient may automatically retain up to 10% of its LSC funds. 45 C.F.R. § 1628.3(a). If a recipient's end-of-year carryover exceeds the amount of funds that it is permitted to retain, the excess fund balance generally must be returned to the Corporation. *Id.* § 1628.3(e). For a recipient to retain more than 10% of its funds, it must request a waiver from the Corporation. *Id.* § 1628.3(b).

LSC revised Part 1628 in 2000 "to provide the Corporation with more discretion to determine whether to permit a recipient to maintain a fund balance of up to 25% of its LSC support for a particular period." 65 Fed. Reg. 66637, 66638 (Nov. 7, 2000). In addition, the revised rule "authorizes the Corporation to exercise its discretion to waive the 25% cap on excess fund balances in three specific circumstances when extraordinary and compelling reasons exist for such a waiver." *Id.* These "extraordinary and compelling circumstances" are narrowly limited to when a recipient receives certain types of income derived from its use of LSC grant funds: (1) "an insurance reimbursement," (2) "the proceeds from the sale of real property," or (3) "a payment from a lawsuit in which the recipient was a party." 45 C.F.R. § 1628.3(c). Although "[t]he Committee considered using a standard of 'extraordinary and compelling' for these waivers with the three specific circumstances discussed as examples," it ultimately decided "that more guidance was required to avoid erosion of the standard." 65 Fed. Reg. at 66640.

In the years since the revised rule was published, LSC grantees have experienced various unexpected occurrences leading to balances in excess of 25% of their annual funding that have fallen outside of the three "extraordinary and compelling circumstances" listed in section

Proposed Revisions to 45 C.F.R. Part 1628

January XX, 2014

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1628.3(c). These occurrences have included an end-of-year transfer of assets from a former grantee to a current grantee, a natural disaster that resulted in a significant infusion of use-or-lose disaster relief funds from non-LSC sources, and receipt of a large attorneys' fees award in an LSC-funded case near the end of the fiscal year. Because these events are not among the three "extraordinary and compelling circumstances" that allow for a waiver in excess of 25% of funding, but are, at the very least, arguably legitimate reasons for a recipient to incur a large carryover, Management believes Part 1628 should be revised to allow LSC to consider granting waivers in those and other extraordinary and compelling circumstances, in addition to the three circumstances currently listed. Such unanticipated circumstances should include situations where a grantee receives income derived from its use of LSC grant funds as well as situations where a recipient is unable to expend its current LSC grant funds as originally planned.

The rulemaking to revise Part 1628 would include the following topics:

- Revise section 1628.3(c) to state that the list of "extraordinary and compelling circumstances" in that section is not exclusive, and that the situations described are intended to serve only as examples of when the Corporation has discretion to grant a waiver in excess of 25% of a recipient's annual fund balance;
- Consider adding to section 1628.3(c) additional examples of "extraordinary and compelling circumstances";
- Consider requiring that Management provide notice to the Board of any decision that the Corporation makes to grant a waiver in excess of 25% of a recipient's annual fund balance; and
- Consider expressly stating that a recipient may submit a request for a waiver prior to the close of the fiscal year. Section 1628.4(a) currently provides only that a recipient may request a waiver within 30 days of the submission of its annual audited financial statements. 45 C.F.R. § 1628.4(a). The preamble to the revised 2000 rule, however, notes that "[t]his rule does not preclude the recipient's request for a Corporation action on a waiver prior to the close of the fiscal year." 65 Fed. Reg. at 66640.

The proposed timeline for revision is as follows:

- **April 2015** – Present Committee and Board with a Rulemaking Options Paper and draft NPRM. We propose a 30-day comment period for the NPRM.
- **July 2015** – Present Committee and Board with a final rule.



OFFICE OF LEGAL AFFAIRS

To: Operations and Regulations Committee

From: Ronald S. Flagg, General Counsel and Vice President for Legal Affairs

Stefanie K. Davis, Assistant General Counsel

Peter Karalis, OLA Graduate Fellow

Re: History of 45 C.F.R. Part 1603—State Advisory Councils

Date: November 17, 2014

This memo responds to a request from the Operations and Regulations Committee (~~Committee~~) of the LSC Board of Directors for information on the history of 45 C.F.R. Part 1603, governing state advisory councils. The request arose from the Office of Inspector General's (~~OIG~~) recommendation that LSC either act to request the governors of each state to appoint councils or rescind Part 1603, because the state advisory councils appeared to be defunct. The requested history is presented herein.

I. Text and Legislative History of Section 1004(f)

Section 1004(f) of the LSC Act begins with a prescription of the process for appointing state advisory councils:

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.

42 U.S.C. § 2996c(f). The legislative history behind this provision indicates how the word ~~authorized~~ arose in the final bill:

The House bill required the Board to appoint a State advisory council within 90 days if the Governor fails to do so. The Senate amendment authorized the Board to make such appointments. The House recedes.

S. Rep. No. 93-845, at 18 (1974).

The remainder of section 1004(f) prescribes the duties of both the state advisory councils and the Corporation once councils have been appointed:

The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this subchapter and applicable rules, regulations, and guidelines promulgated pursuant to this subchapter. 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.

Id. With regard to these duties, Senator Kennedy provided the following statement:

No provision is made for resources to provide staff for these councils, and we do not expect the very limited resources of the Corporation to be used for such purposes, since it is expected that they will function only when necessary to provide the required notifications.

120 Cong. Rec. S12,953 (daily ed. July 18, 1974) (statement of Sen. Kennedy).

Congress revisited the role of the state advisory councils more than seven years after the LSC Act was passed when Senator Chiles proposed amendments to an appropriations bill that would provide funding for LSC. John A. Dooley & Alan W. Houseman, *Legal Services History* ch. 4, at 11 & n.37 (Nov. 1984) (citing 127 Cong. Rec. S11,518 (daily ed., Oct. 15, 1981)). Senator Chiles' original amendments included his recommendation for "strengthening state advisory councils," but this language was removed during modification in committee. *Id.* Section 1004(f) was not amended at all.

II. Part 1603

LSC promulgated Part 1603, which became effective on January 23, 1976, ~~to~~ implement section 1004(f) of the Legal Services Corporation Act of 1974, 42 U.S.C. 2996c(f), which provides authority for the appointment of state advisory councils." 40 Fed. Reg. 59351 (Dec. 23, 1975). Section 1603.4 governs the procedure for the appointment of council, and begins as follows:

At the formal request of the Board, to be made before January 14, 1976, the Governor may appoint a council for the State. Those council members who are attorneys admitted to practice in the State shall be appointed by the Governor after recommendations have been received from the State bar association. In

making such appointments, it is recommended the Governor consult with other bar associations in the State, representatives of groups concerned with the interests of recipients, eligible clients and other interested groups.

45 C.F.R. § 1603.4. After describing additional recommended actions for the Governor to take in appointing council members, the provision contains an additional requirement regarding the maintenance of existing councils:

Sixty days prior to the expiration of a member's term, the Governor shall notify those groups mentioned in this Section so that their recommendations may be solicited for purposes of appointment of a new member or reappointment of an incumbent member of the council.

Id.

Part 1603 also contains several provisions that govern the duties of the Corporation regarding interaction with and support of state advisory councils. First, section 1603.5, in reference to complaints submitted by the council, states that “[t]he Corporation shall inform the complainant, the council and the recipient of all action taken on the complaint.” *Id.* § 1603.5(c). Second, section 1603.6, governing notification of apparent violations, provides:

(a) Upon receipt of a notification of an apparent violation, the matters contained therein shall be investigated and resolved by the Corporation in accordance with the Act and rules and regulations issued thereunder.

(b) Upon receipt from a council of a notification of an apparent violation, the Corporation shall allow any recipient affected thereby a reasonable time (but in no case less than thirty days) to reply to any allegation contained in the notification.

(c) The Corporation shall inform the Chairperson of a council of the action, if any, the Corporation has taken with regard to any notification received from such council.

Id. § 1603.6. Third, section 1603.8 governs the Corporation’s support of the councils:

(a) The Corporation shall inform the Chairperson of each council of the funds available to the council from the Corporation for actual and reasonable expenses incurred by members of the council to pursue council business.

(b) It shall be the duty of the President of the Corporation to keep the Chairperson of each council informed of the work of the Corporation.

(c) The Secretary of the Corporation shall mail annually to each recipient the name and address of the Chairperson of the appropriate council and a form of notice indicating where complaints may be sent.

Id. § 1603.8.

State advisory councils are mentioned in two other LSC regulations in addition to Part 1603. Part 1618 governs enforcement procedures and provides in relevant part that “[a] complaint of a violation of the Act by a recipient or an employee may be made to the recipient, the State Advisory Council, or the Corporation.” *Id.* § 1618.3. Part 1622 governs public access to meetings held by the Board, committees, and state advisory councils, and refers to councils throughout its provisions. *Id.* §§ 1622.1-1622.5, 1622.8. For example, section 1622.3 provides that “[e]very 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.” *Id.* § 1622.3.

III. Office of General Counsel’s 1989 Opinion on the Mandate of Section 1004(f)

On September 19, 1989, the Office of General Counsel (“OGC”) issued an opinion in response to an inquiry from the Office of Rep. Pete Laney “regarding the responsibility of the Governor of Texas to appoint members to a state advisory council” in conformance with section 1004(f) of the LSC Act. Letter from Suzanne B. Glasow, Senior Counsel for Operations and Regulations, to Mike Sims, Office of Rep. Pete Laney at 1 (Sept. 19, 1989) (“1989 Opinion” or “Opinion”). In the 1989 Opinion, OGC determined that section 1004(f) “does not mandate the creation of state advisory councils; it merely permits their creation.” *Id.*

In its analysis, the 1989 Opinion contrasts the word “shall”—used in the statute to describe the Board’s duty to request the initial appointment of a council by a governor—with the word “authorized”—used to describe the Board’s ability to appoint a council if a governor failed to do so. *Id.* at 2 (quoting 42 U.S.C. § 2996c(f)):

. . . Congress did not require LSC to appoint state advisory councils; instead, Congress required LSC to request the state governors to appoint such councils and permitted LSC to appoint such councils if the governors did not.

Id.

The 1989 Opinion ultimately concluded that

LSC’s first Board of Directors met its six-month deadline to invite governors to appoint [state advisory councils]. Following the deadline, LSC had the discretion to appoint members for those states where the Governor failed to act, but LSC records do not show that the Board exercised its option to appoint.

Id. The 1989 Opinion closed with a brief history of the state advisory council program up to that point in time:

In June 1976, LSC President Thomas Ehrlich informed the LSC Board that 46 [state advisory councils] had been appointed. However, later reports reflect that many of these councils rarely met, if ever. By 1983 only six [state advisory councils] appeared to be operational. At present, only two appear to be functioning (Colorado and Indiana).

Id.

IV. LSC Responses to Inquiries Regarding State Advisory Councils

In 2002, LSC Assistant General Counsel Dawn M. Browning responded to a request from the Virginia State Legislature's Joint Legislative Audit & Review Commission regarding the status of the Virginia State Advisory Council to LSC. Memorandum from Dawn M. Browning, Assistant General Counsel, to Victor M. Fortuno, General Counsel (Dec. 3, 2002). After researching the issue with former LSC employees who were active at the time the councils were functioning, Browning responded, in part, as follows:

1) The Virginia State Advisory Council to LSC is inactive, as are the state advisory councils from all other states; 2) there is no plan at this time to appoint a state advisory council to Virginia or any other state . . . ; 3) the function of the state advisory councils – to identify non-compliance with the LSC Act and Regulations – are carried out practically by any number of parties including LSC employees, the LSC OIG clients, private citizens, etc.

Id.

In 2004, Browning responded to a request from Legal Services of North Dakota regarding how the North Dakota State Advisory Council should handle the first complaint that it had ever received. Memorandum from Dawn M. Browning, Assistant General Counsel, to Victor M. Fortuno, General Counsel (March 17, 2004). In her response, Browning relied on the research she had gathered in 2002 to state that

1) Governors typically no longer appoint such councils 2) LSC does not appoint the councils when governors fail to; and 3) the regulation governing the councils has been largely un-enforced since the mid-1980s.

Id. Browning further stated that if the advisory council had already informed LSC's Office of Compliance and Enforcement of the complaint, then no further action was required of it. *Id.*

Executive Order 13563 -- Improving Regulation and Regulatory Review
January 18, 2011

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve regulation and regulatory review, it is hereby ordered as follows:

Section 1. General Principles of Regulation. (a) Our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science. It must allow for public participation and an open exchange of ideas. It must promote predictability and reduce uncertainty. It must identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends. It must take into account benefits and costs, both quantitative and qualitative. It must ensure that regulations are accessible, consistent, written in plain language, and easy to understand. It must measure, and seek to improve, the actual results of regulatory requirements.

(b) This order is supplemental to and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866 of September 30, 1993. As stated in that Executive Order and to the extent permitted by law, each agency must, among other things: (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

(c) In applying these principles, each agency is directed to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. Where appropriate and permitted by law, each agency may consider (and discuss qualitatively) values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

Sec. 2. Public Participation. (a) Regulations shall be adopted through a process that involves public participation. To that end, regulations shall be based, to the extent feasible and consistent with law, on the open exchange of information and perspectives among State, local, and tribal officials, experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole.

(b) To promote that open exchange, each agency, consistent with Executive Order 12866 and other applicable legal requirements, shall endeavor to provide the public with an opportunity to

participate in the regulatory process. To the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days. To the extent feasible and permitted by law, each agency shall also provide, for both proposed and final rules, timely online access to the rulemaking docket on regulations.gov, including relevant scientific and technical findings, in an open format that can be easily searched and downloaded. For proposed rules, such access shall include, to the extent feasible and permitted by law, an opportunity for public comment on all pertinent parts of the rulemaking docket, including relevant scientific and technical findings.

(c) Before issuing a notice of proposed rulemaking, each agency, where feasible and appropriate, shall seek the views of those who are likely to be affected, including those who are likely to benefit from and those who are potentially subject to such rulemaking.

Sec. 3. Integration and Innovation. Some sectors and industries face a significant number of regulatory requirements, some of which may be redundant, inconsistent, or overlapping. Greater coordination across agencies could reduce these requirements, thus reducing costs and simplifying and harmonizing rules. In developing regulatory actions and identifying appropriate approaches, each agency shall attempt to promote such coordination, simplification, and harmonization. Each agency shall also seek to identify, as appropriate, means to achieve regulatory goals that are designed to promote innovation.

Sec. 4. Flexible Approaches. Where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, each agency shall identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. These approaches include warnings, appropriate default rules, and disclosure requirements as well as provision of information to the public in a form that is clear and intelligible.

Sec. 5. Science. Consistent with the President's Memorandum for the Heads of Executive Departments and Agencies, "Scientific Integrity" (March 9, 2009), and its implementing guidance, each agency shall ensure the objectivity of any scientific and technological information and processes used to support the agency's regulatory actions.

Sec. 6. Retrospective Analyses of Existing Rules. (a) To facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. Such retrospective analyses, including supporting data, should be released online whenever possible.

(b) Within 120 days of the date of this order, each agency shall develop and submit to the Office of Information and Regulatory Affairs a preliminary plan, consistent with law and its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.

Executive Order 13563
Improving Regulation and Regulatory Review
January 18, 2011

Sec. 7. General Provisions. (a) For purposes of this order, "agency" shall have the meaning set forth in section 3(b) of Executive Order 12866.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

THE WHITE HOUSE,
January 18, 2011.

<http://www.whitehouse.gov/the-press-office/2011/01/18/improving-regulation-and-regulatory-review-executive-order>

45 CFR Part 1640

OFFICE OF LEGAL AFFAIRS

TO: Operations and Regulations Committee

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

DATE: January 6, 2015

SUBJECT: Rulemaking Options Paper — 45 C.F.R. Part 1640: Application of Federal Law to LSC Recipients

This Rulemaking Options Paper (ROP) sets forth options and recommendations regarding revisions to Part 1640 of the LSC regulations. 45 C.F.R. Part 1640 governs the applicability of Federal laws relating to the proper use of Federal funds by LSC recipients, as required by section 504(a)(19) of LSC's fiscal year 1996 appropriations statute. This ROP summarizes the history of Part 1640 and the impetus for this proposed rulemaking. It will also propose three alternatives for addressing the issues identified as appropriate for rulemaking.

I. Summary of Management Recommendation

Management recommends that the Committee authorize rulemaking and approve publication of the attached Notice of Proposed Rulemaking (NPRM) to amend Part 1640. As explained more fully below, publication of the attached NPRM will give the Corporation more flexibility to account for changes in Federal laws relating to the proper use of Federal funds. It will also ensure that LSC continues providing notice to recipients about which laws LSC considers "Federal laws relating to the proper use of Federal funds."

II. Background

In 1996, Congress placed certain restrictions and conditions on LSC's grant-making activities.¹ Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134, Tit. V, 110 Stat. 1321 (1996). One of those conditions prohibited LSC from making a financial assistance award to any person or entity

unless such person or entity enters into a contractual agreement to be subject to all provisions of Federal law relating to the proper use of Federal funds, the violation of

¹ Congress has incorporated these restrictions by reference in LSC's annual appropriations acts every year since 1996. *See, e.g.*, Pub. L. 104-208, § 502(a)(2), 110 Stat. 3009, 3009-59 (1997) (fiscal year 1997 appropriations act); Pub. L. 105-119, Tit. V, § 502(a)(2), 111 Stat. 2440, 2510 (1997) (fiscal year 1998 appropriations act); Pub. L. 113-76, Div. B, Tit. V, 128 Stat. 5, 76 (2014) (fiscal year 2014 appropriations act).

which shall render any grant or contractual agreement to provide funding null and void, and, for such purposes, the Corporation shall be considered to be a Federal agency and all funds provided by the Corporation shall be considered to be Federal funds provided by grant or contract.

Id. § 504(a)(19).

LSC promulgated an interim rule with a request for comments to implement this new condition on its grants. 61 Fed. Reg. 45760 (Aug. 29, 1996). In the preamble to the interim rule, LSC announced that it was interpreting the statutory phrase “all provisions of Federal law relating to the proper use of Federal funds” to mean “with respect to [a recipient’s] LSC funds, all programs should be subject to Federal laws which address issues of waste, fraud and abuse of Federal funds.” Id. LSC based its interpretation on legislative history that appeared to limit the applicable laws to those dealing with fraud, waste, and abuse of Federal funds. In particular, LSC relied on two congressional documents to support its interpretation. First, the Corporation cited to the House Report for H. R. 2076, which was a prior effort to enact a provision similar to section 504(a)(19). The relevant language in that report stated:

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

H. Rep. No. 104-196, 104th Cong., 1st Sess. 116 (July 1995) (emphasis added). The second source of support was section 5 of H. R. 1806, the Legal Services Reform Act of 1995, which was an unsuccessful attempt to revise the LSC Act. As an extension of his remarks introducing H.R. 1806, Rep. McCollum submitted a partial summary of the bill, including a discussion of section 5 entitled “Application of waste, fraud, and abuse laws.” 141 Cong. Rec. E1220-21 (daily ed. June 9, 1995). Section 5 itself was titled “Protection Against Theft and Fraud,” and expressly included provisions of Title 18 of the U.S. Code pertaining to criminal offenses involving the misuse of Federal funds, as well as provisions of the False Claims Act. H. R. 1806, 104th Cong., § 5 (1995).

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

LSC made clear in the preamble to the interim rule that it intended the list of statutes set forth in the rule to be an exhaustive list of the statutes for which it could summarily terminate a recipient’s funding, as contemplated by section 504(a)(19). Id. at 45760 (“The relevant laws are listed in the definition of ‘Federal law relating to the proper use of Federal funds’ in paragraph

(a)(1) of this section.”). Consistent with this intent, LSC stated that “Federal law relating to the proper use of Federal funds means” a discrete list of thirteen statutes. *Id.* at 45761. LSC received no comments on this section, and made no amendments in the final rule. 62 Fed. Reg. 19424 (Apr. 21, 1997). This list has remained unchanged since LSC issued the final rule in 1997.

LSC annually issues a set of grant assurances that recipients must agree to in order to receive funding. These grant assurances represent the “contractual agreement to be subject to all provisions of Federal law relating to the proper use of Federal funds” required by section 504(a)(19). In the course of developing the 2015 Grant Assurances, LSC and OIG determined that the list of statutes in 45 C.F.R. § 1640.2 was problematic because it failed to include all of the relevant laws. For example, the list does not include 18 U.S.C. § 666², which OIG described in its June 24, 2014 memo to this Committee as “the primary federal statute for prosecution of theft, embezzlement, and bribery schemes involving non-federal officials.” Because this provision is not included in the definition of the term “Federal law relating to the proper use of Federal funds” in 45 C.F.R. § 1640.2, if any recipient, or an officer or employee of a recipient, has been convicted of violating 18 U.S.C. § 666, LSC cannot, under the current regulation, summarily terminate the recipient’s funding as directed by section 504(a)(19) of the 1996 LSC appropriations act.

LSC has identified two other statutes as appropriate for inclusion in Part 1640. Both are criminal statutes. 18 U.S.C. § 285 prohibits the use of false pretenses to obtain “payment of money from or by the United States.” 18 U.S.C. § 1031 criminalizes major fraud schemes, which by the terms of the statute are frauds involving grants, contracts, or other forms of Federal assistance valued at \$1 million or more. Because both of these statutes authorize criminal sanctions for the fraudulent obtaining or use of Federal funds, LSC believes they are “Federal law relating to the proper use of Federal funds” for purposes of section 504(a)(19) and Part 1640.

Both Management and OIG have recommended that LSC revise Part 1640 to ensure that it reflects the current “Federal law relating to the proper use of Federal funds.” In its July 2, 2014 memo to this Committee, Management proposed amending Part 1640 “to include 18 U.S.C. § 666 and any other Federal laws governing waste, fraud, and abuse of Federal funds that currently are excluded.” OIG proposed that LSC amend Part 1640 by removing “all specific statutory references from the regulation and [referring] readers to the LSC website, where LSC would maintain an easily-updated list of applicable statutes.”

² H.R. 1806 included 18 U.S.C. § 666 among the criminal statutes aimed at preventing theft or fraud involving Federal funds. The regulatory history does not explain why this section was omitted from the list in section 1640.2(a)(1).

III. Options

A. Process and Considerations

LSC’s framework for revising 45 C.F.R. § 1640.2(a) was based on two considerations: whether the list of “Federal law relating to the proper use of Federal funds” should remain in Part 1640 or be moved to LSC’s website, and whether the list should remain exhaustive or be made illustrative. Within this framework, LSC identified four options for revising the rule, each of which combines one of the choices from each of the two considerations.

LSC considered the benefits and costs of retaining the list of statutes in the regulation versus publishing the rule in another medium. Keeping the list of statutes in section 1640.2(a) has the benefit of maintaining the status quo, which means that recipients can continue to find the list of “Federal law relating to the proper use of Federal funds” in LSC’s regulations alongside the provisions governing the contractual agreement and the processes that LSC will follow in enforcing these laws. However, keeping the list in the text of the regulation would continue to require LSC to undertake rulemaking each time it wanted to revise the list of statutes in section 1640.2(a). Given the relative infrequency with which Congress enacts organic legislation or amends existing statutes, it is unlikely that LSC would have regular occasion to revise the list. Because rulemaking requires a significant investment of LSC staff resources and time, however, even sporadic updates may be delayed because of the time needed to engage in the rulemaking process.

LSC believes that relocating the list to LSC’s website would not decrease recipients’ notice of the applicable laws because LSC would provide a link to the list in the annual grant assurances that recipients must agree to as a condition of funds. Maintaining the list on its website would also give LSC more flexibility to update and revise the list of laws in a timely manner than the rulemaking process allows.

Similarly, LSC balanced the costs and benefits of retaining an exhaustive list of “Federal law relating to the proper use of Federal funds” versus making the list illustrative. An exhaustive list would provide recipients with clear notice of all the laws that LSC considers “Federal law relating to the proper use of Federal funds” for purposes of the summary termination sanction prescribed by section 504(a)(19) of the FY 1996 LSC appropriations act. It would not, however, address OIG’s concern that the summary termination sanction would not be available for violations of Federal laws governing the proper use of Federal funds that are not included on the list. Making the list illustrative would address OIG’s concern, but it would simultaneously dilute the value of the notice to recipients because recipients would not know for certain that the laws listed are the only ones for which the summary termination sanction is available. We believe transparency and notice are desirable in this context.

After analyzing each of the factors discussed above, LSC identified the following four options for revising 45 C.F.R. § 1640.2(a).

B. Option 1: Move the exhaustive list of statutes to LSC’s website

Under this option, LSC would rename § 1640.2(a)(1) and revise it to replace the list of statutes with a statement that LSC will maintain a publicly available list of Federal laws relating to the proper use of Federal funds on its website and include a link to the list in the annual grant assurances. LSC would also provide for Board approval of any proposed additions to or deletions from the public list, and public notice to recipients whenever the list is modified. Additionally, because LSC would remove the list from § 1640.2(a)(1), LSC would make technical changes to the sections of Part 1640 that refer to the list.

1. Proposed Rule Text

§ 1640.2 ~~Definitions~~ Applicable Federal laws

(a) LSC will maintain a public list of applicable Federal laws relating to the proper use of Federal funds on its website and provide recipients a link to the list in the contractual agreement. The list will be exhaustive and may be modified with the approval of the Corporation’s Board of Directors. LSC will provide notice to recipients whenever the list is modified. ~~(1) Federal law relating to the proper use of Federal funds means:~~

- ~~(i) 18 U.S.C. 201 (Bribery of Public Officials and Witnesses);~~
- ~~(ii) 18 U.S.C. 286 (Conspiracy to Defraud the Government With Respect to Claims);~~
- ~~(iii) 18 U.S.C. 287 (False, Fictitious, or Fraudulent Claims);~~
- ~~(iv) 18 U.S.C. 371 (Conspiracy to Commit Offense or Defraud the United States);~~
- ~~(v) 18 U.S.C. 641 (Public Money, Property or Records);~~
- ~~(vi) 18 U.S.C. 1001 (Statements or Entries Generally);~~
- ~~(vii) 18 U.S.C. 1002 (Possession of False Papers to Defraud the United States);~~
- ~~(viii) 18 U.S.C. 1516 (Obstruction of Federal Audit);~~
- ~~(ix) 31 U.S.C. 3729 (False Claims);~~
- ~~(x) 31 U.S.C. 3730 (Civil Actions for False Claims), except that actions that are authorized by 31 U.S.C. 3730(b) to be brought against persons may not be brought against the Corporation, any recipient, subrecipient, grantee, or contractor of the Corporation, or any employee thereof;~~

- ~~(xi) 31 U.S.C. 3731 (False Claims Procedure);~~
- ~~(xii) 31 U.S.C. 3732 (False Claims Jurisdiction); and~~
- ~~(xiii) 31 U.S.C. 3733 (Civil Investigative Demands).~~

2. Comments

Option 1 combines the administrative benefits of moving the list out of the rule with the clear notice benefits of keeping an exhaustive list. Option 1 also provides the Board with flexibility in soliciting public comment, ranging from public notice and written comment to providing an opportunity for public comment at a Board of Directors meeting at which the update is discussed. Additionally, LSC commits itself in Option 1 to giving recipients notice whenever it modifies the list, which, again, promotes transparency and clear guidance about the requirements that recipients must follow.

C. Option 2: Move the list of statutes to LSC’s website, but make it illustrative

In Option 2, LSC would make changes similar to those proposed in Option 1. Unlike Option 1, Option 2 would include language in § 1640.2(a) and on the website stating that the list of “Federal law relating to the proper use of federal funds” may include other laws not included on the list.

1. Proposed Rule Text

§ 1640.2 ~~Definitions~~ Applicable Federal laws

(a) LSC will maintain a public list of examples of applicable Federal laws relating to the proper use of Federal funds on its website and provide recipients a link to the list in the contractual agreement. The list is not exclusive and may be modified with the approval of the Corporation’s Board of Directors. LSC will provide notice to recipients whenever the list is modified. ~~(1) Federal law relating to the proper use of Federal funds means:~~

- ~~(i) 18 U.S.C. 201 (Bribery of Public Officials and Witnesses);~~
- ~~(ii) 18 U.S.C. 286 (Conspiracy to Defraud the Government With Respect to Claims);~~
- ~~(iii) 18 U.S.C. 287 (False, Fictitious, or Fraudulent Claims);~~
- ~~(iv) 18 U.S.C. 371 (Conspiracy to Commit Offense or Defraud the United States);~~
- ~~(v) 18 U.S.C. 641 (Public Money, Property or Records);~~
- ~~(vi) 18 U.S.C. 1001 (Statements or Entries Generally);~~

- ~~(vii) 18 U.S.C. 1002 (Possession of False Papers to Defraud the United States);~~
- ~~(viii) 18 U.S.C. 1516 (Obstruction of Federal Audit);~~
- ~~(ix) 31 U.S.C. 3729 (False Claims);~~
- ~~(x) 31 U.S.C. 3730 (Civil Actions for False Claims), except that actions that are authorized by 31 U.S.C. 3730(b) to be brought against persons may not be brought against the Corporation, any recipient, subrecipient, grantee, or contractor of the Corporation, or any employee thereof;~~
- ~~(xi) 31 U.S.C. 3731 (False Claims Procedure);~~
- ~~(xii) 31 U.S.C. 3732 (False Claims Jurisdiction); and~~
- ~~(xiii) 31 U.S.C. 3733 (Civil Investigative Demands).~~

2. Comments

Like Option 1, Option 2 improves LSC's ability to provide notice to its recipients of the addition, amendment, or repeal of "Federal law related to the proper use of Federal funds" in a timely manner. However, because Option 2 makes the list of statutes illustrative, rather than exclusive, it does not provide recipients notice of the entire universe of statutes to which LSC could apply the summary termination sanction under section 504(a)(19).

D. Option 3: Revise Part 1640 to Update the List of Statutes and Make the List Illustrative

The third option would involve only minor substantive changes to the existing text of section 1640.2(a)(1). In this option, LSC would revise the introductory language of section 1640.2(a)(1) to state that the list is not exhaustive and add the three statutes identified as appropriate for addition to the list.

1. Proposed Rule Text

§ 1640.2 ~~Definitions~~ Applicable Federal laws

(a)(1) Federal law relating to the proper use of Federal funds includes, but is not limited to:

- (i) 18 U.S.C. 201 (Bribery of Public Officials and Witnesses);
- (ii) 18 U.S.C. 285 (Taking or Using Papers Relating to Claims);
- (iii) 18 U.S.C. 287 (False, Fictitious, or Fraudulent Claims);

- (iv) 18 U.S.C. 371 (Conspiracy to Commit Offense or Defraud the United States);
- (v) 18 U.S.C. 641 (Public Money, Property or Records);
- (vi) 18 U.S.C. 666 (Theft or Bribery Concerning Programs Receiving Federal Funds);
- (vii) 18 U.S.C. 1001 (Statements or Entries Generally);
- (viii) 18 U.S.C. 1002 (Possession of False Papers to Defraud the United States);
- (ix) 18 U.S.C. 1031 (Major Fraud Against the United States);
- (x) 18 U.S.C. 1516 (Obstruction of Federal Audit);
- (xi) 31 U.S.C. 3729 (False Claims);
- (xii) 31 U.S.C. 3730 (Civil Actions for False Claims), except that actions that are authorized by 31 U.S.C. 3730(b) to be brought against persons may not be brought against the Corporation, any recipient, subrecipient, grantee, or contractor of the Corporation, or any employee thereof;
- (xiii) 31 U.S.C. 3731 (False Claims Procedure);
- (xiv) 31 U.S.C. 3732 (False Claims Jurisdiction); and
- (xv) 31 U.S.C. 3733 (Civil Investigative Demands).

2. Considerations

By stating that the list in the definition is not exhaustive, Option 3 addresses OIG's concerns about ensuring that all Federal laws relating to the proper use of Federal funds, even those that are not listed explicitly, are included within the scope of Part 1640. However, Option 3 neither improves LSC's ability to update the list of statutes in a timely manner, nor does it provide explicit notice of all the statutes to which LSC believes the sanctions required by section 504(a)(19) of the FY 1996 LSC appropriations act apply.

E. Option 4: Revise Part 1640 to Update the Exhaustive List of Statutes

Similar to Option 3, Option 4 would add to section 1640.2(a)(1) the three statutes LSC and OIG have identified as appropriate for inclusion on the list. Unlike in Option 3, section 1640.2(a)(1) would remain an exhaustive list of statutes.

1. Proposed Rule Text

§ 1640.2 Definitions

- (a)(1) Federal law relating to the proper use of Federal funds means:
- (i) 18 U.S.C. 201 (Bribery of Public Officials and Witnesses);
 - (ii) 18 U.S.C. 285 (Taking or Using Papers Relating to Claims);
 - (iii) 18 U.S.C. 287 (False, Fictitious, or Fraudulent Claims);
 - (iv) 18 U.S.C. 371 (Conspiracy to Commit Offense or Defraud the United States);
 - (v) 18 U.S.C. 641 (Public Money, Property or Records);
 - (vi) 18 U.S.C. 666 (Theft or Bribery Concerning Programs Receiving Federal Funds);
 - (vii) 18 U.S.C. 1001 (Statements or Entries Generally);
 - (viii) 18 U.S.C. 1002 (Possession of False Papers to Defraud the United States);
 - (ix) 18 U.S.C. 1031 (Major Fraud Against the United States);
 - (x) 18 U.S.C. 1516 (Obstruction of Federal Audit);
 - (xi) 31 U.S.C. 3729 (False Claims);
 - (xii) 31 U.S.C. 3730 (Civil Actions for False Claims), except that actions that are authorized by 31 U.S.C. 3730(b) to be brought against persons may not be brought against the Corporation, any recipient, subrecipient, grantee, or contractor of the Corporation, or any employee thereof;
 - (xiii) 31 U.S.C. 3731 (False Claims Procedure);
 - (xiv) 31 U.S.C. 3732 (False Claims Jurisdiction); and
 - (xv) 31 U.S.C. 3733 (Civil Investigative Demands).

2. Considerations

Because the list remains exhaustive, Option 4 would not address OIG's concerns about the rule becoming over- or under-inclusive as Congress enacts, repeals, and amends laws governing the proper use of Federal funds. Nor would Option 4 improve LSC's ability to update the list in a timely fashion.

IV. Procedure

The Committee has two options for revising Part 1640. First, the Committee could engage in notice and comment rulemaking, with or without workshops. If the Committee chooses this option, it would also need to determine the length of the public comment period following the issuance of an NPRM. Second, the Committee could authorize negotiated rulemaking.

V. Management Recommendation

A. Substance

Management recommends Option 1, revising § 1640.2(a)(1) to move the exhaustive list of specific statutes recipients to its website to provide clear notice of the list of Federal laws relating to the proper use of Federal funds.

B. Process

Management recommends amending Part 1640 through notice and comment rulemaking. Management does not believe that rulemaking workshops are necessary, given the limited and technical nature of the proposed changes. Based on Management's recommendation, a draft NPRM for Option 1 is attached for the Committee's consideration. Depending on the Committee's reaction to the draft NPRM, the Committee could approve the draft NPRM (or a revised NPRM) at its January 2015 meeting or a subsequent meeting.

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

LEGAL SERVICES CORPORATION

45 CFR Part 1640

Application of Federal law to LSC Recipients

AGENCY: Legal Services Corporation

ACTION: Notice of proposed rulemaking

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

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

ADDRESSES: Written comments must be submitted to Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street N.W., Washington, DC 20007; (202) 337-6519 (fax) or lscrulemaking@lsc.gov. Electronic submissions are preferred via email with attachments in Acrobat PDF format. Written comments sent to any other address or received after the end of the comment period may not be considered by LSC.

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

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 504(a)(19) of LSC's FY 1996 appropriations act required LSC recipients to enter into a contract that subjected recipients to "all provisions of Federal law relating to the proper use of Federal funds." Sec. 504(a)(19), Pub. L. 104-134, title V; 110 Stat. 1321. By its terms, a violation of Sec. 504(a)(19) renders any LSC grant or contract null and void. The provision has been incorporated by reference into each of LSC's annual appropriations act since. Accordingly, the preamble and text of this proposed rule continue to refer to the appropriate section number of the FY 1996 appropriations act.

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

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

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

H. Rep. No. 104-196, 104th Cong., 1st Sess. 116 (July 1995) (emphasis added). Second, LSC cited section 5 of H. R. 1806, the Legal Services Reform Act of 1995, which was an unsuccessful attempt to revise the LSC Act. As an extension of his remarks introducing H.R. 1806, Rep. McCollum submitted a partial summary of the bill, including a discussion of section 5 entitled “Application of waste, fraud, and abuse laws.” 141 Cong. Rec. E1220-21 (daily ed. June 9, 1995). Section 5 itself was titled “Protection Against Theft and Fraud,” and expressly included provisions of Title 18 of the U.S. Code pertaining to criminal offenses involving the misuse of Federal funds, as well as provisions of the False Claims Act. H. R. 1806, 104th Cong., § 5 (1995).

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

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

II. LSC’s Consideration of the Applicable Federal laws.

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

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

In response to OIG’s concern, LSC initially considered removing all statutory references from the regulation and instead drafting a definition of “Federal law relating to the proper use of Federal funds” to encompass all the applicable Federal laws without the need to specifically list the statutory references. LSC staff concluded that any possible definition would either narrow the scope of Section 504(a)(19) too much or allow for too broad of an interpretation of the provision. LSC subsequently based its options for revising Part 1640 on two considerations: whether the list of “Federal law relating to the proper use of Federal funds” should remain in Part 1640 or be moved to LSC’s website, and whether the list should remain exhaustive or be made illustrative. LSC considered whether each option for amending the regulation appropriately balanced the desire for notice to recipients about the “Federal law relating to the proper use of Federal funds” covered by the rule with LSC’s interest in expeditiously amending the list of such laws whenever Congress acts to add, repeal, or amend them.

First, the Corporation considered adding the missing statutes to the current § 1640.2(a)(1) list and revising the language to make it clear that the list of statutes is merely illustrative. LSC staff concluded that an illustrative list would not give recipients adequate notice about which laws may be included in this part. Second, LSC considered simply adding the three missing statutes to the current list in § 1640.2(a)(1) and retaining the list’s exhaustive nature. LSC staff concluded that this option would not address OIG’s concerns about the rule becoming over- or under-inclusive as laws governing the proper use of Federal funds are amended, added, or repealed. Nor would this option improve LSC’s ability to update the list in a timely fashion.

Finally, LSC considered removing all statutory references from the regulation and instead referring readers to the LSC website, where LSC would maintain an easily updated list of applicable statutes. LSC staff concluded that this option would allow LSC more flexibility to update and revise the list of laws in a timely manner. This option would also provide recipients with adequate notice of the applicable laws because LSC would provide a link to the list in the annual contractual agreement.

LSC proposes to adopt this last option using an exhaustive list of statutes. This approach would require a minor modification in the contractual agreement between the Corporation and its recipients, which currently directs recipients to the § 1640.2(a)(1) list. The Corporation refers to this contractual agreement as the “LSC Grant Assurances,” and requires recipients to consent to the agreement annually as a condition of receiving LSC funding. The Grant Assurances would be modified to direct recipients to the Corporation’s website, where the list of applicable laws would be maintained.

As required by the LSC Rulemaking Protocol, LSC staff prepared an explanatory rulemaking options paper, accompanied by a proposed rule amending Part 1640. On January XX, 2015, the Board voted to authorize LSC to initiate rulemaking. On January XX, 2015, the Board approved the proposed rule for publication in the **Federal Register** for notice and comment. A section by section analysis of the proposed rule is provided below.

III. Proposed List of Federal Laws Relating to the Proper Use of Federal Funds

LSC proposes to post the following list of applicable Federal laws relating to the proper use of Federal funds on the Corporation’s website. The list would be subject to change as legislation changes. LSC seeks comment on both the proposal to remove the list from Part 1640 and the proposed list of statutes.

1. 18 USC 201 (Bribery of Public Officials and Witnesses);
2. 18 USC 285 (Taking or using papers relating to claims);
3. 18 USC 286 (Conspiracy to Defraud the Government With Respect to Claims);
4. 18 USC 287 (False, Fictitious or Fraudulent Claims);
5. 18 USC 371 (Conspiracy to Commit Offense or Defraud the United States);
6. 18 USC 641 (Public Money, Property or Records);
7. 18 USC 666 (Theft or bribery concerning programs receiving Federal funds);
8. 18 USC 1001 (Statements or Entries Generally);
9. 18 USC 1002 (Possession of False Papers to Defraud the United States);
10. 18 USC 1031 (Major fraud against the United States);
11. 18 USC 1516 (Obstruction of Federal Audit);
12. 31 USC 3729 (False Claims);
13. 31 USC 3730 (Civil Actions for False Claims), except that actions that are authorized by 31 USC 3730(b) to be brought by persons may not be brought against the Corporation, any recipient, subrecipient, grantee, or contractor of the Corporation, or its employees;
14. 31 USC 3731 (False Claims Procedure);
15. 31 USC 3732 (False Claims Jurisdiction); and
16. 31 USC 3733 (Civil Investigative Demands).

IV. Proposed Changes

1640.1 Purpose

LSC proposes to revise § 1640.1 to reflect the changes to § 1640.2.

1640.2 Applicable Federal laws

LSC proposes to delete existing § 1640.2(a)(1), redesignate § 1640.2(a)(2) as § 1640.2(b), and redesignate existing § 1640.2(b)(1) and (2) as § 1640.4(a) and (c) respectively.

Proposed § 1640.2(a) states that the Corporation will maintain a public list of applicable Federal laws. The list will be maintained on the Corporation's website. The contract between the Corporation and the recipient, currently referred to as LSC Grant Assurances, will be revised to provide recipients with a link to the list.

Removing the list of statutes from the text of the rule will allow the Corporation to modify the list as needed with approval of the Board, rather than requiring LSC to engage in rulemaking prior to making any necessary changes. This change will allow LSC to update the list more quickly in response to congressional actions adding, amending, or repealing "Federal law relating to the proper use of Federal funds." Modification of the list with Board approval does not rule out notice and comment for any changes, but it also does not require notice and comment for any changes. LSC will provide recipients with notice any time the list is modified.

Proposed § 1640.2(b) renumbers and revises existing § 1640.2(a)(2) for clarity and readability. LSC made no substantive changes to this subsection.

Recipients are reminded that OIG has statutory responsibility to investigate the activities covered by the applicable Federal laws. Although the contractual agreement with the Corporation would apply only to LSC funds, recipients are further reminded that OIG investigates reports of possible theft or misuse of a recipient's non-LSC funds as well as its LSC funds and would report any theft or misuse that is found to the appropriate Federal or State authorities.

1640.3 Contractual agreement

LSC proposes to revise existing § 1640.3 to reflect the removal of the list of Federal law relating to the proper use of Federal funds from §1640.2. LSC also proposes minor editorial changes to the rule.

1640.4 Violation of agreement

LSC proposes to redesignate existing § 1640.2(b)(1) and (b)(2) as § 1640.4(a) and (c) respectively. The proposed move will group each definition in existing § 1640.2(b) with each definition's consequence for violating the agreement in existing § 1640.4. LSC made no substantive changes to this subsection, but has revised the text for clarity.

List of Subjects in 45 CFR Part 1640

Fraud; Grant programs-law; Legal services.

For the reasons set forth in the preamble, the Legal Services Corporation proposes to revise 45 CFR part 1640 as follows:

PART 1640 – APPLICATION OF FEDERAL LAW TO LSC RECIPIENTS

1. The authority citation for Part 1640 is revised to read as follows:

AUTHORITY: Sec. 504(a)(19), Pub L. 104-208, 110 Stat. 3009; 42 U.S.C. 2996f(b)(2).

2. Revise § 1640.1 to read as follows:

§ 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.

3. Revise § 1640.2 to read as follows:

§ 1640.2 Applicable federal laws

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

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

4. Revise §1640.3 to read as follows:

§ 1640.3 Contractual agreement

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

5. Revise § 1640.4 to read as follows

§ 1640.4 Violation of agreement

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

(b) A violation of the agreement by a recipient based on recipient conduct will result in the Corporation terminating the recipient's LSC grant or contract without need for a termination

hearing. While an appeal of a conviction or judgment is pending, the Corporation may take any necessary steps to safeguard its funds.

(c) LSC will determine that the recipient has violated the agreement described in § 1640.3 when an employee or board member of the recipient has been convicted of, or judgment has been entered against the employee or board member for, a violation of an applicable Federal law relating to the proper use of Federal funds with respect to the recipient's grant or contract with LSC, by the court having jurisdiction of the matter, and any appeals of the conviction or judgment have been exhausted or the time for appeal has expired, and the Corporation finds that the recipient has knowingly or through gross negligence allowed the employee or board member to engage in such activities.

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

Migrant and Agricultural Population Data Report & Draft Public Notice

TO: Operations and Regulations Committee

FROM: Ronald S. Flagg, General Counsel and Vice President for Legal Affairs
Bristow Hardin, Program Analyst, Office of Program Performance

DATE: January 21, 2015

SUBJECT: Agricultural Worker Population Estimate Update

OVERVIEW

LSC has provided grants to serve migrant and other agricultural workers (generally referred to as “Migrant Grants”) with appropriated funds since the 1970s. Since 1996, funds appropriated for “Basic Field Programs” have been allocated to each state, territory and the District of Columbia via a per-capita funding formula based on data from the U.S. Census Bureau regarding the size and location of the poverty population. The entire state, territory, or District of Columbia is a single “geographic area” within which LSC may designate one or more “service areas” for grants. Within most of these geographic areas, LSC distributes those funds through general-purpose “Basic Field—General” grants and through separate “Basic Field—Migrant” grants.¹ The amount of the Migrant Grant in each geographic area is based on the migrant population of that area, which is deducted from the total poverty population for that area for purposes of calculating the general-purpose Basic Field—General grant.

The basis on which LSC allocates Migrant Grants raises at least two fundamental issues. First, the data used to estimate the migrant population of each geographic area are outdated. There is no U.S. Census Bureau estimate of migrant population or agricultural worker population, and the migrant population figures LSC uses to compute migrant grants are based on historical estimates dating back to 1990. Second, there is a mismatch between the population served by so-called “Migrant Grants” – generally migrant and other agricultural workers – and the population used to determine the distribution and allocation of Migrant Grants – solely migrant workers.

LSC management has investigated and analyzed these issues over the course of the past 15 months and contracted with the U.S. Department of Labor to provide updated data regarding the current population of agricultural workers and their dependents eligible for LSC-funded services. Based on that work, management recommends to the Board that LSC seek public comment on a proposal to (1) use the new Department of Labor data for grants beginning in January 2016, (2) phase in the funding changes to provide intermediate funding halfway between the old and new levels for 2016 and to fully implement the new levels for 2017, and (3) update the data every

¹ There are Migrant Grants covering 43 states and Puerto Rico. There is no more than one migrant service area in a state. Services to migrants in six New England states (CT, MA, ME, NH, RI, and VT) are provided by Pine Tree Legal Assistance through a single service area (under a single Migrant Grant). Service to migrants in seven Southern states (AL, AR, KY, LA, MS, TN, and TX) are provided by Texas Rural Legal Assistance through a single service area (under a single Migrant Grant). FY14 grant amounts for service areas in individual states ranged from \$24,318 (DE) to \$2,585,613 (CA).

three years on the same cycle as LSC updates poverty population data from the U.S. Census Bureau for the distribution of LSC's Basic Field—General grants.

Attached are (1) LSC Management's Report providing the details of the work on these issues and the data provided by the Department of Labor, and (2) a proposed request for public comments for publication in the Federal Register. The balance of this memorandum provides an executive summary of LSC's Management Report.

LSC FUNDING OF LEGAL SERVICES TO AGRICULTURAL WORKERS

Since its establishment, LSC has provided "Migrant Grants" to serve migrant and other agricultural workers and their dependents under the authority of the LSC Act to structure grants for the most economic and effective delivery of legal assistance. 42 U.S.C. § 2996f(a)(3). Congress amended the LSC Act in 1977 to require that LSC conduct a study of the special legal needs of various subpopulations, including migrant or seasonal farmworkers, and develop and implement appropriate means of addressing those needs. 42 U.S.C. § 2996f(h). LSC's study, issued in 1979, concluded that specialized legal expertise and knowledge were needed to address the distinctive "unmet special legal problems" that migrant and seasonal farmworkers shared because of "the type and conditions of work in which they are engaged and their cultural and ethnic background."²

Over the last forty years, through direct work with and service to agricultural workers, grantees with Migrant Grants ("Migrant Grantees") have gained a deep understanding of those workers' legal needs and have developed delivery models designed to address those needs. Migrant Grantees have adapted those models over time to respond to the changing circumstances of agricultural workers, new developments in agricultural labor markets, and evolving best practices in legal aid delivery.

LSC's funding of specialized grants to serve agricultural workers and their dependents parallels the approach Congress has taken in funding a range of programs to address the particular of needs of migrant and other agricultural workers, and their dependents, in areas such as education, health services, housing, and job placement and training.³

STUDY METHODOLOGY

LSC Management's analysis of the agricultural population issues had two components. The first component focused on identifying the population of agricultural workers and their dependents, if any, that face similar barriers to access to the civil justice system and whose legal needs can be addressed most effectively and efficiently by specialized legal assistance and delivery approaches. LSC conducted this part of the analysis itself. The second part of the analysis was

² Legal Services Corporation (1979). Special Legal Problems and Problems of Access to Legal Services of Veterans, Migrant and Seasonal Farm Workers, Native Americans, People with Limited English-Speaking Ability, and Individuals in Sparsely Populated Areas ("1007(h) Study"), p.34.

³ See Management Report Section III.

the development of an estimate of the size and distribution of the population of agricultural workers and their dependents that are eligible for LSC-funded services (LSC-eligible population). LSC contracted with the Department of Labor's Employment and Training Administration to perform this task.

A. LSC Analysis of the Legal Needs of Agricultural Workers and Their Dependents

1. Information and Data Sources⁴

LSC Management based its analysis of the legal needs of agricultural workers and their dependents on data from multiple sources, including:

- Internal LSC data regarding grantee staffing, funding, and case services, as well as reports from grantee reviews conducted by LSC staff and grantees' funding applications;
- Relevant government reports, academic and other research publications, and reports and publications of groups with subject-matter expertise;⁵
- Interviews with current and former staff of government agencies, academics and other researchers, and staff of organizations with subject-matter expertise⁶;
- A survey of LSC's Migrant Grantees (LSC Migrant Grantee Survey) with a 100% response rate and a survey of LSC's Basic Field Grantees (LSC Basic Field Grantee Survey) with a response rate of 68.6%⁷;
- Consultations with the Executive Directors and staff of LSC grantees, members of the National Legal Aid and Defender Association (NLADA) Agricultural Workers Group Project, and managers and staff of other providers of legal services to agricultural workers and their dependents; and
- Consultations with staff of the U.S. Department of Labor (DOL) Employment and Training Administration (ETA) and ETA contractors.

2. The Legal Needs of the Agricultural Worker Population⁸

A combination of factors creates the legal needs of the agricultural worker population. Several of these factors are rooted in the nature of agricultural work. Government data show that agriculture is the most dangerous industrial sector in the U.S. – in 2012, it had the highest fatal and non-fatal occupational injury rates of all private industries. Agricultural work is often insecure, temporary, and low-paid. A labor surplus of 2 to 2.5 farmworkers for each year-round equivalent job contributes to high unemployment. The seasonality of work means that very few farmworkers have year-round work. And the industry median wage is only 55% of the median wage for all full-time wage and salary workers.

⁴ See Management Report Section II.

⁵ See Management Report Appendix C for a list of works cited in the Report.

⁶ See Management Report Appendix D for a list of persons interviewed.

⁷ See Management Report Appendices E and F for copies of the survey instruments.

⁸ See Management Report Section V.

The legal needs of agricultural workers arise in the context of laws and regulations, some that apply solely to agricultural workers and others that exclude agricultural workers from legal protections generally afforded to other workers and thereby directly affect the legal advice and strategies applicable to such workers. In the latter category, for example, the Fair Labor Standards Act (FLSA) requires employers to pay workers for all hours they work and to pay workers at least the Federal minimum wage. However, farms with fewer than 11 employees – which employ nearly half (46%) of all hired workers – are exempt from the federal minimum wage requirement. FLSA also exempts agricultural employers from paying overtime and from child labor requirements that apply to other employers. Provisions of the Occupational Health and Safety Act (OSHA) require employers to meet field sanitation standards (e.g., drinking water, toilets) and temporary labor camp housing standards and provide safety equipment. However, appropriation riders prohibit Federal health and safety inspections at small farms without temporary labor camps and also exempt those establishments from OSHA’s worker protection provisions. Agricultural employers are also exempt from the National Labor Relations Act (NLRA), which protects workers’ rights associated with collective bargaining to improve the terms and conditions of employment. At the same time, other laws create a legal framework unique to agriculture. One federal law, the Migrant and Seasonal Agricultural Worker Protection Act (AWPA), is designed specifically to protect the rights of agricultural workers. Section H-2A of the Immigration and Nationality Act authorizes growers to hire “temporary, nonimmigrant” guest workers (H-2A workers) when they demonstrate there are not sufficient U.S. workers qualified and available to perform the needed work.

As described in Section V of the Management Report, LSC Migrant Grantees and other farmworker legal aid programs not funded by LSC, report that the most pressing areas of legal need for their clients include: non-payment of wages or violations of minimum wage laws, issues arising under the AWPA (including claims involving substandard housing and employment contract disputes), violations of occupational safety and health laws, violations of field sanitation standards, sexual abuse and sexual harassment, and human trafficking.

3. Factors Creating Barriers to Access to Civil Legal Assistance to Address the Legal Needs of the Agricultural Worker Population⁹

Government resources to enforce the legal rights of agricultural workers in the areas listed above are limited. Accordingly, the surveys of LSC grantees and other sources of information indicate that agricultural workers often require the assistance of legal services lawyers to enforce their rights in these areas. A combination of factors, however, creates barriers to access to legal services to address the legal needs of the agricultural worker population. The agricultural worker population is isolated from sources of assistance. This population is often geographically isolated given the remote locations of job sites and employer-provided housing. Even off-farm housing in urban areas is often located in enclaves isolated from non-farmworker communities. Agricultural workers are often isolated by limited transportation and many must rely on their employers or farm labor contractors for transport.

⁹ See Management Report Section VI.

Social and cultural isolation compounds geographic isolation. Compared to the total U.S. population, agricultural workers are far more likely to be Latino/Hispanic (76%) and foreign born (71%). Only 39% have schooling beyond the ninth grade. Only 33% report they can speak English “well” and nearly as many (27%) report they cannot speak English at all. Many are from southern Mexico (*e.g.*, Oaxaca, Chiapas) where the native language is not Spanish.

4. The Specialized Expertise and Services Provided by Farmworker Programs¹⁰

LSC Migrant Grantees employ a variety of techniques to address most effectively and efficiently the barriers to civil justice and unique legal needs of the LSC-eligible agricultural worker population. These include:

- Employing bilingual and multilingual staff with the necessary cultural competency to communicate effectively and credibly with the agricultural worker population;
- Using special intake procedures, maintaining flexible staff work hours, and making extensive use of technology (such as special toll-free lines, cell/text phones, laptops) to serve clients in remote areas;
- Conducting outreach at labor camps and other places workers live as well as at locations other than workers’ job sites and homes;
- Performing extensive community legal education;
- Maintaining partnerships with community organizations and agencies that serve the agricultural worker population and working with agencies responsible for enforcing laws pertaining to the rights of the agricultural worker population;
- Having expertise regarding federal and state laws with special provisions affecting agricultural workers; and
- Coordinating work with advocates providing services to agricultural workers in other states.

5. The Agricultural Population Eligible for LSC-Funded Assistance¹¹

To allocate funding for the delivery of specialized assistance to the agricultural worker population, LSC management recommends that this population be defined to include migrant and seasonal crop workers, horticultural workers, livestock workers, and certain forestry workers, and these workers’ dependents, *who have incomes below the poverty line* (the benchmark used by the U.S. Census Bureau for defining the poverty population) and *meet LSC eligibility criteria regarding citizenship and alien status*.

The range of factors identified above combine to create access barriers and legal needs that are shared by this population. First, agricultural labor is distinctive for its dangers, insecurity, and low pay. Second, this population experiences distinctive social, cultural, and geographic isolation. Third, these workers are subject to statutory and regulatory provisions that are unique to agriculture. Fourth, this population is served by other federal and state programs that are specifically designed to address the distinctive needs of agricultural workers in areas such as

¹⁰ See Management Report Section VII.

¹¹ See Management Report Section VIII.

education, employment, health, and housing. Finally, these workers all work in industrial sectors that are classified as “agriculture” by the Census Bureau’s North American Industry Classification System.

B. The Department of Labor Estimate of the Size and Distribution of the Agricultural Worker Population Eligible for LSC-Funded Legal Services

LSC contracted with the Department of Labor’s Employment and Training Administration (ETA) to estimate the size and distribution of the population of agricultural workers and their dependents that are eligible for LSC-funded services (LSC-eligible population). ETA contracted with JBS International (JBS) to use Department of Labor and other government data¹² to develop these estimates. Details regarding this work are set forth in Section II and Appendix A of the Management Report.

Based on the estimates provided by ETA, the following table sets forth the state-by-state estimates of the agricultural worker population eligible for LSC services. It also contrasts the ETA estimates with the estimates currently used for allocating Migrant grants. For both the population estimates currently used and the ETA estimates, the table shows the estimated population of the LSC-eligible agricultural worker population nationally, and each state’s percentage share of the national LSC-eligible agricultural worker population. The table also shows the extent to which the ETA estimates and the estimates currently used differ in numerical and percentage terms.

As the data in the table show, the ETA estimate of the total LSC-eligible agricultural worker population national population is 1,553,003, 4.13% less than the estimate currently used of 1,619,982. The magnitude of the changes at the state level varies, in most cases more significantly.

¹² Data from the following sources were used in these calculations: the United States Department of Agriculture (USDA) 2012 Census of Agriculture (COA), the USDA Farm Labor Survey (FLS), the Department of Labor (DOL) Bureau of Labor Statistics’ Quarterly Census of Employment and Wages (QCEW), the DOL National Agricultural Workers Survey (NAWS), the DOL Office of Foreign Labor Certification (OFLC) H2-A and H-2B worker certification data, the DOL “Adverse Effect Wage Rate” (AEWR) data, and the U.S. Census Bureau poverty thresholds.

LSC-Eligible Agricultural Worker Population by State
Comparison of Current Population Estimates and Department of Labor Employment and Training
Administration (ETA) Estimates

| State | Current Population Estimate | | ETA Population Estimate | | Change: ETA Estimate +/- Current | |
|---------------|-----------------------------|----------------------|-------------------------|----------------------|----------------------------------|--------------------|
| | Persons | Percent (%) of Total | Persons | Percent (%) of Total | Persons | Percent (%) Change |
| Alabama | 4,712 | 0.291% | 13,120 | 0.845% | 8,408 | 178.4% |
| Alaska | 0 | 0.000% | 1,485 | 0.096% | 1,485 | n/a |
| Arizona | 21,265 | 1.313% | 40,135 | 2.584% | 18,870 | 88.7% |
| Arkansas | 11,321 | 0.699% | 13,245 | 0.853% | 1,924 | 17.0% |
| California | 378,096 | 23.340% | 323,521 | 20.832% | (54,575) | -14.4% |
| Colorado | 21,272 | 1.313% | 27,458 | 1.768% | 6,186 | 29.1% |
| Connecticut | 2,386 | 0.147% | 8,889 | 0.572% | 6,503 | 272.5% |
| Delaware | 3,556 | 0.220% | 1,472 | 0.095% | (2,084) | -58.6% |
| Florida | 128,633 | 7.940% | 91,727 | 5.906% | (36,906) | -28.7% |
| Georgia | 56,155 | 3.466% | 28,820 | 1.856% | (27,335) | -48.7% |
| Hawaii | 0 | 0.000% | 12,701 | 0.818% | 12,701 | n/a |
| Idaho | 26,771 | 1.653% | 32,852 | 2.115% | 6,081 | 22.7% |
| Illinois | 35,754 | 2.207% | 35,394 | 2.279% | (360) | -1.0% |
| Indiana | 16,285 | 1.005% | 26,006 | 1.675% | 9,721 | 59.7% |
| Iowa | 5,404 | 0.334% | 45,938 | 2.958% | 40,534 | 750.1% |
| Kansas | 0 | 0.000% | 29,978 | 1.930% | 29,978 | n/a |
| Kentucky | 6,096 | 0.376% | 25,017 | 1.611% | 18,921 | 310.4% |
| Louisiana | 3,945 | 0.244% | 16,849 | 1.085% | 12,904 | 327.1% |
| Maine | 10,281 | 0.635% | 12,264 | 0.790% | 1,983 | 19.3% |
| Maryland | 13,022 | 0.804% | 5,729 | 0.369% | (7,293) | -56.0% |
| Massachusetts | 2,384 | 0.147% | 9,004 | 0.580% | 6,620 | 277.7% |
| Michigan | 86,214 | 5.322% | 43,522 | 2.802% | (42,692) | -49.5% |
| Minnesota | 28,656 | 1.769% | 38,462 | 2.477% | 9,806 | 34.2% |
| Mississippi | 8,174 | 0.505% | 13,991 | 0.901% | 5,817 | 71.2% |
| Missouri | 11,668 | 0.720% | 27,461 | 1.768% | 15,793 | 135.4% |

LSC-Eligible Agricultural Worker Population by State
Comparison of Current Population Estimates and Department of Labor Employment and Training
Administration (ETA) Estimates
(continued)

| State | Current Population Estimate | | ETA Population Estimate | | Change: ETA Estimate +/- Current | |
|-------------------|-----------------------------|----------------------|-------------------------|----------------------|----------------------------------|--------------------|
| | Persons | Percent (%) of Total | Persons | Percent (%) of Total | Persons | Percent (%) Change |
| Montana | 7,818 | 0.483% | 13,854 | 0.892% | 6,036 | 77.2% |
| Nebraska | 6,056 | 0.374% | 31,440 | 2.024% | 25,384 | 419.2% |
| Nevada | 0 | 0.000% | 5,740 | 0.370% | 5,740 | n/a |
| New Hampshire | 1,424 | 0.088% | 3,845 | 0.248% | 2,421 | 170.0% |
| New Jersey | 17,281 | 1.067% | 8,008 | 0.516% | (9,273) | -53.7% |
| New Mexico | 12,509 | 0.772% | 19,564 | 1.260% | 7,055 | 56.4% |
| New York | 39,645 | 2.447% | 38,244 | 2.463% | (1,401) | -3.5% |
| North Carolina | 76,764 | 4.739% | 51,741 | 3.332% | (25,023) | -32.6% |
| North Dakota | 16,602 | 1.025% | 16,851 | 1.085% | 249 | 1.5% |
| Ohio | 18,042 | 1.114% | 31,834 | 2.050% | 13,792 | 76.4% |
| Oklahoma | 8,963 | 0.553% | 15,574 | 1.003% | 6,611 | 73.8% |
| Oregon | 79,782 | 4.925% | 60,176 | 3.875% | (19,606) | -24.6% |
| Pennsylvania | 23,739 | 1.465% | 20,234 | 1.303% | (3,505) | -14.8% |
| Puerto Rico | 41,642 | 2.571% | 7,098 | 0.457% | (34,544) | -83.0% |
| Rhode Island | 253 | 0.016% | 988 | 0.064% | 735 | 290.5% |
| South Carolina | 28,330 | 1.749% | 13,547 | 0.872% | (14,783) | -52.2% |
| South Dakota | 0 | 0.000% | 15,572 | 1.003% | 15,572 | n/a |
| Tennessee | 9,084 | 0.561% | 17,928 | 1.154% | 8,844 | 97.4% |
| Texas | 198,948 | 12.281% | 83,809 | 5.397% | (115,139) | -57.9% |
| Utah | 9,715 | 0.600% | 10,247 | 0.660% | 532 | 5.5% |
| Vermont | 1,161 | 0.072% | 4,880 | 0.314% | 3,719 | 320.3% |
| Virginia | 22,589 | 1.394% | 21,058 | 1.356% | (1,531) | -6.8% |
| Washington | 104,545 | 6.453% | 79,936 | 5.147% | (24,609) | -23.5% |
| West Virginia | 0 | 0.000% | 3,792 | 0.244% | 3,792 | n/a |
| Wisconsin | 13,040 | 0.805% | 45,482 | 2.929% | 32,442 | 248.8% |
| Wyoming | 0 | 0.000% | 6,521 | 0.420% | 6,521 | n/a |
| Total U.S. | 1,619,982 | 100.000% | 1,553,003 | 100.000% | (66,979) | -4.13% |

7050-01

LEGAL SERVICES CORPORATION

Request for Comments—Agricultural Worker Population Data for Basic Field—Migrant Grants

AGENCY: Legal Services Corporation

ACTION: Request for Comments

SUMMARY: The Legal Services Corporation (LSC) provides special population grants to effectively and efficiently fund civil legal aid services to address the legal needs of agricultural workers and their dependents through grants entitled “Basic Field—Migrant.” The funding for these grants is based on data regarding the eligible client population to be served. LSC has obtained from the U.S. Department of Labor new data regarding this population that are more current than the data LSC has been using and that better reflect the population to be served. LSC seeks comments on a proposal to (1) use the new data for grants beginning in January 2016, (2) phase in the funding changes to provide intermediate funding halfway between the old and new levels for 2016 and to fully implement the new levels for 2017, and (3) update the data every three years on the same cycle as LSC updates poverty population data from the U.S. Census Bureau for the distribution of LSC’s Basic Field—General grants.

DATES: Comments must be submitted by [insert date 45 days from date of publication].

ADDRESSES: Written comments must be submitted to Mark Freedman, Senior Assistant General Counsel, Legal Services Corporation, 3333 K St., NW., Washington, DC 20007; 202-295-1623 (phone); 202-337-6519 (fax); mfreedman@lsc.gov. Electronic submissions are preferred via email with attachments in Acrobat PDF format. Written comments sent to any other address or received after the end of the comment period may not be considered by LSC.

FOR FURTHER INFORMATION CONTACT: Mark Freedman, Senior Assistant General Counsel, Legal Services Corporation, 3333 K St., NW., Washington, DC 20007; 202-295-1623 (phone); 202-337-6519 (fax); mfreedman@lsc.gov.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation (“LSC” or “Corporation”) was established through the LSC Act “for the purpose of providing financial support for legal assistance in noncriminal matters or proceedings to persons financially unable to afford such assistance.” 42 U.S.C. 2996b(a). LSC performs this function primarily through distributing funding appropriated by Congress to independent civil legal aid programs providing legal services to low-income persons throughout the United States and its possessions and territories. 42 U.S.C. 2996e(a)(1)(A). LSC designates geographic service areas and structures grants to support services to the entire eligible population in a service area or to a specified subpopulation of eligible clients. 45 CFR 1634.2(c) & (d), 1634.3(b). LSC awards these grants through a competitive process. 45 CFR part 1634. Congress has mandated that LSC “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.” 42 U.S.C. 2996f(a)(3).

Throughout the United States and U.S. territories, LSC provides Basic Field—General grants to support legal services for eligible clients. LSC provides funding for those grants on a per-capita basis using the poverty population as determined by the U.S. Census Bureau every three years. Pub. L. 104-134, tit. V, 501(a), 110 Stat. 1321, 1321-50 (1996), as amended by Pub. L. 113-6, div. B, tit. IV, 127 Stat. 198, 268 (2013) (LSC funding formula adopted in 1996, incorporated by reference in LSC’s appropriations thereafter, and amended in 2013). Since its establishment in 1974, LSC has also provided subpopulation grants to support legal services for the needs of agricultural workers through Basic Field—Migrant grants under the authority of the

LSC Act to structure grants for the most economic and effective delivery of legal assistance. 42 U.S.C. 2996f(a)(3). Congress amended the LSC Act in 1977 to require that LSC conduct a study of the special legal needs of various subpopulations, including migrant or seasonal farm workers, and develop and implement appropriate means of addressing those needs. 42 U.S.C. 2996f(h). LSC's study, issued in 1979, concluded that specialized legal expertise and knowledge were needed to address the distinctive "unmet special legal problems" that migrant and seasonal farmworkers shared because of their status as farmworkers. Legal Services Corporation, *Special Legal Problems and Problems of Access to Legal Services of Veterans, Migrant and Seasonal Farm Workers, Native Americans, People, with Limited English-Speaking Ability, and Individuals in Sparsely Populated Areas*, 1979.

LSC provides funding for Basic Field—Migrant grants on a per-capita basis by determining the size of the subpopulation and separating that population from the overall poverty population for the applicable geographic area or areas. LSC expects programs receiving these grants to serve the legal needs of a broad range of eligible agricultural workers and their dependents who have specialized legal needs that are most effectively and efficiently served through a dedicated grant program. LSC currently uses data regarding migrant and seasonal farmworkers, and their families, from the early 1990s, with some adjustments based on changes in the general poverty population. These data are no longer current and do not reflect the entire population served by these grants.

The United States Department of Labor, Employment and Training Administration (ETA) collects data regarding agricultural workers for federal grants serving the needs of the American agricultural worker population. The U.S. Census Bureau does not maintain data regarding agricultural workers. LSC has contracted with ETA for more current

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data regarding the agricultural worker population served by these grants. ETA has provided LSC with these data, including state-by-state breakdowns. The changes in data will result in changes in funding levels for these grants. A description of these data and their development is available at: <http://www.lsc.gov/about/mattersforcomment.php>.

LSC management has proposed to the LSC Board of Directors (Board) that LSC use the new data for these grants as follows:

- (1) implement the new data for calculation of these grants beginning in January 2016;
- (2) phase in the funding changes to provide intermediate funding halfway between the old and new levels for 2016 and to fully implement the new levels for 2017;
- (3) update the data every three years on the same cycle as LSC updates poverty population data from the U.S. Census Bureau for the distribution of LSC's Basic Field—General grants.

[DRAFT BOARD CONSIDERATION LANGUAGE] LSC Management presented this proposal to the Board's Operations and Regulations Committee (Committee) on January 22, 2015. The Committee then recommended Management's proposal to the full board on January 24, 2015. The Board adopted the recommendation of Management and the Committee [INSERT ANY CHANGES OR MODIFICATIONS] that LSC publish this notice of Management's proposal in the *Federal Register* for comment. The Committee will meet to consider all comments received and make a recommendation to the Board for a final decision.

LSC management's proposal and related documents are available at: <http://www.lsc.gov/about/mattersforcomment.php>.

LSC invites public comment on this issue. Interested parties may submit comments to LSC before the deadline stated above.

DRAFT

Dated: January __, 2015

Ronald S. Flagg

Vice President & General Counsel



LEGAL SERVICES CORPORATION

LSC AGRICULTURAL WORKER POPULATION ESTIMATE UPDATE

LSC Management Report to LSC Board of Directors

January 2015

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SECTION I INTRODUCTION AND OVERVIEW

LSC Funding of Legal Services to Agricultural Workers

LSC has provided grants to serve migrant and other agricultural workers (generally referred to as “Migrant Grants”) with appropriated funds since the 1970s. In a study, mandated by Congress in 1977, LSC found that that agricultural workers have unique, special needs related to their status, in particular “the type and conditions of work in which they are engaged and their cultural and ethnic background.”¹ Since 1996, funds appropriated for “Basic Field Programs” have been allocated to each state, territory, and the District of Columbia via a per-capita funding formula based on data from the U.S. Census Bureau regarding the size and location of the poverty population. The entire state, territory, or District of Columbia is a single “geographic area” within which LSC may designate one or more “service areas” for grants. Within most of these geographic areas, LSC distributes those funds through general-purpose “Basic Field—General” grants and through separate “Basic Field—Migrant” grants.² The amount of the Migrant Grant in each geographic area is based on the migrant population of that area, which is deducted from the total poverty population for that area for purposes of calculating the general-purpose Basic Field—General grant.

Over the last forty years, through direct work with and service to agricultural workers, grantees with Migrant Grants (“Migrant Grantees”) have gained a deep understanding of those workers’ legal needs and have developed delivery models designed to address those needs. Migrant Grantees have adapted those models over time to respond to the changing circumstances of

¹ LEGAL SERVICES CORPORATION, SPECIAL LEGAL PROBLEMS AND PROBLEMS OF ACCESS TO LEGAL SERVICES OF VETERANS, MIGRANT AND SEASONAL FARM WORKERS, NATIVE AMERICANS, PEOPLE WITH LIMITED ENGLISH-SPEAKING ABILITY, AND INDIVIDUALS IN SPARSELY POPULATED AREAS (“1007(h) Study”) 34 (1979). The LSC Act required the Corporation to conduct a study on whether eligible clients who are migrants and seasonal farmworkers or members of other subpopulations (veterans, Native Americans, persons with Limited English-Speaking ability and those living in rural areas) “have special difficulties of access to legal services or special legal problems which are not being met.” Pub. L. 95-222, § 13, adding § 1007(h) of the LSC Act, codified at 42 U.S.C. § 2996f(h). The shared legal needs of migrants and seasonal farmworkers and the need for specialized legal assistance are addressed on pp. 40-42 and pp. 313-315 of the 1007(h) Study. The 1007(h) Study’s full analysis of these issues is set forth in Chapter I, Section III, D, and Chapter V.

² There are Migrant Grants covering 43 states and Puerto Rico. There is no more than one migrant service area in a state. Services to migrants in six New England states (CT, MA, ME, NH, RI, and VT) are provided by Pine Tree Legal Assistance through a single service area (under a single Migrant Grant). Service to migrants in seven Southern states (AL, AR, KY, LA, MS, TN, and TX) are provided by Texas Rural Legal Assistance through a single service area (under a single Migrant Grant). FY14 grant amounts for service areas in individual states ranged from \$24,318 (DE) to \$2,585,613 (CA).

agricultural workers, new developments in agricultural labor markets, and evolving best practices in legal aid delivery.

LSC's funding of specialized grants to serve migrant and other agricultural workers and their dependents parallels the approach Congress has taken in funding a range of programs to address the particular needs of migrant and other agricultural workers, and their dependents, in areas such as education, health services, housing, and job placement and training.³

When referring to the population served by Migrant Grantees, this report will use the term, "agricultural worker," unless the context intends a more specific reference to workers who are indeed "farmworkers." One of the recommendations of this report is that the population of workers to be served with this specialized funding should be formally defined to include livestock and certain forestry workers, as well as migrant and seasonal crop workers.⁴ Thus, the broader term "agricultural worker" is more accurate.

During the history of service to these workers, various terms have been used to refer to the population. For example, from 1985 to 1995, Congress referred to "migrant programs" in LSC's appropriation, although both migrant and non-migrant seasonal workers were served with that funding. The term, "Migrant Grants," is still used in LSC's grantmaking, and will occasionally be used in this report. LSC and the Migrant Grantees themselves have often referred to the grantees as "Farmworker Programs" to reflect the broader populations served. This report will, therefore, occasionally use the term "Farmworker Programs," when it is historically appropriate.

The Need to Update the Population Estimate on which "Migrant Funding" Is Based⁵

The population estimates used to allocate Migrant Grants need to be updated for two reasons. First, the data on which the current allocation is based have not been substantially updated since Fiscal Year 1996 (FY96). Data are available to provide more accurate estimates of the current size and distribution of the population used to allocate funding for services to the agricultural worker population. Second, the population used to allocate funding does not match the population of agricultural workers and dependents that require specialized legal assistance and that have long been served by Migrant Grantees. These workers include not just migrant farmworkers, but also seasonal farmworkers who do not migrate, livestock workers, and forestry workers.

³ See Section III below.

⁴ See Section VIII below.

⁵ Section III below discusses LSC's funding of specialized services to farmworkers over the past 40 years. Section IV discusses in more detail the reasons the population estimates on which such funding has been based need to be updated.

LSC management informed the LSC Board of Directors at its October 2013 meeting that the population data which provide the basis for allocating Migrant Grants need to be updated and that management would analyze the pertinent issues and present the Board with a set of recommendations to address them.⁶ LSC management has investigated and analyzed these issues over the course of the past 15 months and contracted with the U.S. Department of Labor to provide updated data regarding the current population of agricultural workers and their dependents eligible for LSC-funded services. Based on that work, management recommends to the Board that LSC seek public comment on a proposal to (1) use the new Department of Labor data for grants beginning in January 2016, (2) phase in the funding changes to provide intermediate funding halfway between the old and new levels for 2016 and to fully implement the new levels for 2017, and (3) update the data every three years on the same cycle as LSC updates poverty population data from the U.S. Census Bureau for the distribution of LSC's Basic Field—General grants.

Study Methodology⁷

LSC's analysis of these issues had two components. The first component focuses on identifying the population of agricultural workers and their dependents, if any, that face similar barriers to access to the civil justice system and whose legal needs can be addressed most effectively and efficiently by specialized legal assistance and delivery approaches. LSC conducted this part of the analysis itself based on data from sources including:

- Internal LSC data regarding grantee staffing, funding, and case services as well as reports from grantee reviews conducted by LSC staff and grantees' funding applications;
- Relevant government reports, academic and other research publications as well as reports and publications of groups with subject-matter expertise;⁸
- Interviews with current and former staff of government agencies, academics and other researchers, and staff of organizations with subject-matter expertise;⁹
- A survey of LSC's Migrant Grantees (Migrant Grantee Survey) with a 100% response rate and a survey of LSC's Grantees that do not receive Migrant Grants (Basic Field Grantee Survey) with a response rate of 68.6%;¹⁰

⁶ "Funding of Legal Assistance for Migratory and Other Farmworkers," memorandum from Ronald S. Flagg, Gen. Counsel; Mark F. Freedman, Senior Assistant Gen. Counsel; and Bristow Hardin, Program Analyst, Office of Program Performance to the LSC Board Operations and Regulations Comm. (Oct. 8, 2013) (the full memorandum can be found in Appendix B of this paper).

⁷ See Section II below.

⁸ See Appendix C for a list of works cited in this Report.

⁹ See Appendix D for a list of persons interviewed.

¹⁰ See Appendices E and F for copies of the survey instruments.

- Consultations with the Executive Directors and staff of LSC grantees, members of the National Legal Aid and Defender Association (NLADA) Agricultural Workers Group Project, and managers and staff of other providers of legal services to agricultural workers and their dependents; and
- Consultations with staff of the U.S. Department of Labor (DOL) Employment and Training Administration (ETA) and ETA contractors.

The second part of the analysis was the development of an estimate of the size and distribution of the population of agricultural workers and their dependents that are eligible for LSC-funded services (LSC-eligible population). LSC contracted with the Department of Labor’s Employment and Training Administration (ETA) to perform this task. ETA contracted with JBS International (JBS) to use Department of Labor and other government data to develop these estimates. Section IX presents the ETA estimates. Details regarding methodology and estimates are set forth in Section II and Appendix A of the Management Report.

Legal Needs of the Agricultural Worker Population¹¹

A combination of factors creates the legal needs of the agricultural worker population. Several of these factors are rooted in the nature of agricultural work. Government data show that agriculture is the most dangerous industrial sector in the U.S. – in 2012, it had the highest fatal and non-fatal occupational injury rates of all private industries. Agricultural work is insecure, temporary, and low-paid. A labor surplus of 2 to 2.5 farm workers for each year-round equivalent job contributes to high unemployment. The seasonality of work means that very few workers have year-round work. The industry median wage is only 55% that of all full-time wage and salary workers.

The legal needs of agricultural workers arise in the context of laws and regulations, some of which that apply solely to agricultural workers and others that exclude agricultural workers from some of the legal protections generally afforded to other workers. In the latter category, for example, the Fair Labor Standards Act (FLSA) requires employers to pay workers for all hours they work and to pay workers at least the federal minimum wage. However, farms with fewer than 11 employees – which employ nearly half (46%) of all hired workers – are exempt from the federal minimum wage requirement. FLSA also exempts agricultural employers from paying overtime and from child labor requirements that apply to other employers. Provisions of the Occupational Health and Safety Act (OSHA) require employers to meet field sanitation standards (*e.g.*, drinking water and toilets) and temporary labor camp housing standards and to provide safety equipment. However, appropriations riders prohibit federal health and safety inspections at small farms without temporary labor camps and also exempt those establishments from OSHA’s worker protection provisions. Agricultural employers are also exempt from the National Labor Relations Act (NLRA), which protects workers’ rights associated

¹¹ See Section V below.

with collective bargaining to improve terms and conditions of employment. At the same time, other laws create a legal framework unique to agriculture. One federal law, the Migrant and Seasonal Agricultural Worker Protection Act (AWPA), is designed specifically to protect the rights of agricultural workers. Section H-2A of the Immigration and Nationality Act authorizes growers to hire “temporary, nonimmigrant” guest workers (H-2A workers) when they demonstrate that there are not sufficient U.S. workers qualified and available to perform the needed work.

As described in Section V, LSC Migrant Grantees and other farmworker legal aid programs not funded by LSC, report that the most pressing areas of legal need for their clients include: non-payment of wages or violations of minimum wage laws, issues arising under the AWPA (including claims involving substandard housing and employment contract disputes), violations of occupational safety and health laws, violations of field sanitation standards, sexual abuse and sexual harassment, and human trafficking.

Factors Creating Access Barriers and Exacerbating the Unique Legal Needs of the Agricultural Worker Population¹²

Government resources to enforce the legal rights of agricultural workers in the areas listed above are limited. Accordingly, the surveys of LSC grantees and other sources of information indicate that agricultural workers often require the assistance of legal services lawyers to enforce their rights in these areas. A combination of factors, however, creates barriers to access to legal services to address the legal needs of the agricultural worker population. The agricultural worker population is isolated from sources of assistance. This population is often geographically isolated given the remote locations of job sites and employer-provided housing. Even off-farm housing in urban areas is often located in enclaves isolated from non-farmworker communities. Agricultural workers are often isolated by limited transportation and many must rely on their employers or farm labor contractors for transport.

Social and cultural isolation compounds geographic isolation. Compared to the total U.S. population, agricultural workers are far more likely to be Latino/Hispanic (76%) and foreign born (71%). Only 39% have schooling beyond the ninth grade. Only 33% report they can speak English “well” and nearly as many (27%) report they cannot speak English at all. Many are from southern Mexico (e.g., Oaxaca, Chiapas) where the native language is not Spanish.

Specialized Expertise and Services Provided by Migrant Grantees¹³

LSC farmworker programs employ a variety of techniques to address most effectively and efficiently the barriers to civil justice and unique legal needs of the LSC-eligible agricultural worker population. These include:

¹² See Section V below.

¹³ See Section VII below.

- Employing bilingual and multilingual staff with the necessary cultural competency to communicate effectively and credibly with the agricultural worker population;
- Using special intake procedures, maintaining flexible staff work hours, and making extensive use of technology (such as special toll-free lines, cell/text phones, laptops) to serve clients in remote areas;
- Conducting outreach at labor camps and other places workers live as well as at locations other than workers' job sites and homes;
- Performing extensive community legal education; and
- Maintaining partnerships with community organizations and agencies that serve the agricultural worker population and working with agencies responsible for enforcing law pertaining to the rights of the agricultural worker population.

These grantees seek to ensure staff have specialized expertise in laws and regulations with particular relevance for the agricultural worker population, such as FLSA, AWPA, and OSHA as well as laws pertaining to human trafficking, job discrimination and sexual harassment. Because of the mobility of the agricultural worker population and the impact of judicial rulings and enforcement activities around the country, farmworker advocates maintain on-going coordination and communication with advocates serving agricultural workers in other states.

The Agricultural Population for Allocating Funding for Specialized Assistance¹⁴

To allocate funding for the delivery of specialized assistance to the agricultural worker population, LSC management recommends that this population be defined to include migrant and seasonal crop workers, horticultural workers, livestock workers, and certain forestry workers, and these workers' dependents, *who have incomes below the poverty line* (the benchmark used by the U.S. Census Bureau for defining the poverty population) *and meet LSC eligibility criteria regarding citizenship and alien status.*

The range of factors identified above combine to create access barriers and legal needs that are unique to this population. First, agricultural labor is distinctive for its dangers, insecurity, and low pay. Second, this population experiences distinctive social, cultural and geographic isolation. Third, these workers are subject to statutory and regulatory provisions that are unique to agriculture. Fourth, this population is served by other federal and state programs that are specifically designed to address the distinctive needs of agricultural workers in areas such as education, employment, health, and housing. Finally, these workers all work in industrial sectors that are classified as "agriculture" by the Census Bureau's North American Industry Classification System.

¹⁴ See Section VIII below.

Updated Count of the Agricultural Worker Population¹⁵

The following table sets forth the national and state-by-state estimates of the agricultural worker population eligible for LSC services. It also contrasts the Department of Labor ETA estimates with the estimates currently used for allocating Migrant Grants. For both the population estimates currently used and the ETA estimates, the table shows the estimated population of the LSC-eligible agricultural worker population nationally, and each state's percentage share of the national LSC-eligible agricultural worker population. The table also shows the extent to which the ETA estimates and the estimates currently used differ in numerical and percentage terms.

As the data in Table I show, the ETA estimate of the total LSC-eligible agricultural worker population national population is 1,553,003, 4.13% less than the estimate currently used of 1,619,982. The magnitude of the changes at the state level varies, in most cases more significantly.

¹⁵ See Section IX below.

Table I
LSC-Eligible Agricultural Worker Population by State
Comparison of Current Population Estimates and Department of Labor Employment and
Training Administration (ETA) Estimates

| State | Current Population Estimate | | ETA Population Estimate | | Change: ETA Estimate +/- Current | |
|---------------|-----------------------------|----------------------|-------------------------|----------------------|----------------------------------|--------------------|
| | Persons | Percent (%) of Total | Persons | Percent (%) of Total | Persons | Percent (%) Change |
| Alabama | 4,712 | 0.291% | 13,120 | 0.845% | 8,408 | 178.4% |
| Alaska | 0 | 0.000% | 1,485 | 0.096% | 1,485 | n/a |
| Arizona | 21,265 | 1.313% | 40,135 | 2.584% | 18,870 | 88.7% |
| Arkansas | 11,321 | 0.699% | 13,245 | 0.853% | 1,924 | 17.0% |
| California | 378,096 | 23.340% | 323,521 | 20.832% | (54,575) | -14.4% |
| Colorado | 21,272 | 1.313% | 27,458 | 1.768% | 6,186 | 29.1% |
| Connecticut | 2,386 | 0.147% | 8,889 | 0.572% | 6,503 | 272.5% |
| Delaware | 3,556 | 0.220% | 1,472 | 0.095% | (2,084) | -58.6% |
| Florida | 128,633 | 7.940% | 91,727 | 5.906% | (36,906) | -28.7% |
| Georgia | 56,155 | 3.466% | 28,820 | 1.856% | (27,335) | -48.7% |
| Hawaii | 0 | 0.000% | 12,701 | 0.818% | 12,701 | n/a |
| Idaho | 26,771 | 1.653% | 32,852 | 2.115% | 6,081 | 22.7% |
| Illinois | 35,754 | 2.207% | 35,394 | 2.279% | (360) | -1.0% |
| Indiana | 16,285 | 1.005% | 26,006 | 1.675% | 9,721 | 59.7% |
| Iowa | 5,404 | 0.334% | 45,938 | 2.958% | 40,534 | 750.1% |
| Kansas | 0 | 0.000% | 29,978 | 1.930% | 29,978 | n/a |
| Kentucky | 6,096 | 0.376% | 25,017 | 1.611% | 18,921 | 310.4% |
| Louisiana | 3,945 | 0.244% | 16,849 | 1.085% | 12,904 | 327.1% |
| Maine | 10,281 | 0.635% | 12,264 | 0.790% | 1,983 | 19.3% |
| Maryland | 13,022 | 0.804% | 5,729 | 0.369% | (7,293) | -56.0% |
| Massachusetts | 2,384 | 0.147% | 9,004 | 0.580% | 6,620 | 277.7% |
| Michigan | 86,214 | 5.322% | 43,522 | 2.802% | (42,692) | -49.5% |
| Minnesota | 28,656 | 1.769% | 38,462 | 2.477% | 9,806 | 34.2% |
| Mississippi | 8,174 | 0.505% | 13,991 | 0.901% | 5,817 | 71.2% |
| Missouri | 11,668 | 0.720% | 27,461 | 1.768% | 15,793 | 135.4% |

Table I (Continued)
LSC-Eligible Agricultural Worker Population by State
Comparison of Current Population Estimates and Department of Labor Employment and
Training Administration (ETA) Estimates

| State | Current Population Estimate | | ETA Population Estimate | | Change: ETA Estimate +/- Current | |
|-------------------|-----------------------------|----------------------|-------------------------|----------------------|----------------------------------|--------------------|
| | Persons | Percent (%) of Total | Persons | Percent (%) of Total | Persons | Percent (%) Change |
| Montana | 7,818 | 0.483% | 13,854 | 0.892% | 6,036 | 77.2% |
| Nebraska | 6,056 | 0.374% | 31,440 | 2.024% | 25,384 | 419.2% |
| Nevada | 0 | 0.000% | 5,740 | 0.370% | 5,740 | n/a |
| New Hampshire | 1,424 | 0.088% | 3,845 | 0.248% | 2,421 | 170.0% |
| New Jersey | 17,281 | 1.067% | 8,008 | 0.516% | (9,273) | -53.7% |
| New Mexico | 12,509 | 0.772% | 19,564 | 1.260% | 7,055 | 56.4% |
| New York | 39,645 | 2.447% | 38,244 | 2.463% | (1,401) | -3.5% |
| North Carolina | 76,764 | 4.739% | 51,741 | 3.332% | (25,023) | -32.6% |
| North Dakota | 16,602 | 1.025% | 16,851 | 1.085% | 249 | 1.5% |
| Ohio | 18,042 | 1.114% | 31,834 | 2.050% | 13,792 | 76.4% |
| Oklahoma | 8,963 | 0.553% | 15,574 | 1.003% | 6,611 | 73.8% |
| Oregon | 79,782 | 4.925% | 60,176 | 3.875% | (19,606) | -24.6% |
| Pennsylvania | 23,739 | 1.465% | 20,234 | 1.303% | (3,505) | -14.8% |
| Puerto Rico | 41,642 | 2.571% | 7,098 | 0.457% | (34,544) | -83.0% |
| Rhode Island | 253 | 0.016% | 988 | 0.064% | 735 | 290.5% |
| South Carolina | 28,330 | 1.749% | 13,547 | 0.872% | (14,783) | -52.2% |
| South Dakota | 0 | 0.000% | 15,572 | 1.003% | 15,572 | n/a |
| Tennessee | 9,084 | 0.561% | 17,928 | 1.154% | 8,844 | 97.4% |
| Texas | 198,948 | 12.281% | 83,809 | 5.397% | (115,139) | -57.9% |
| Utah | 9,715 | 0.600% | 10,247 | 0.660% | 532 | 5.5% |
| Vermont | 1,161 | 0.072% | 4,880 | 0.314% | 3,719 | 320.3% |
| Virginia | 22,589 | 1.394% | 21,058 | 1.356% | (1,531) | -6.8% |
| Washington | 104,545 | 6.453% | 79,936 | 5.147% | (24,609) | -23.5% |
| West Virginia | 0 | 0.000% | 3,792 | 0.244% | 3,792 | n/a |
| Wisconsin | 13,040 | 0.805% | 45,482 | 2.929% | 32,442 | 248.8% |
| Wyoming | 0 | 0.000% | 6,521 | 0.420% | 6,521 | n/a |
| Total U.S. | 1,619,982 | 100.000% | 1,553,003 | 100.000% | (66,979) | -4.13% |

SECTION II STUDY METHODOLOGY

The analysis to develop updated estimates of the population on which to base LSC funding allocations for services to agricultural workers and their dependents had two components. One was defining the “agricultural worker population”: the universe of agricultural workers and their dependents with access challenges and unique legal needs that can be addressed most effectively and efficiently by specialized legal assistance and delivery approaches. That part of the analysis was conducted by LSC itself. The second part of the analysis was estimating the total size and the geographic distribution among the 50 states, the District of Columbia, and Puerto Rico of the portion of the agricultural worker population that is eligible for LSC-funded legal assistance (the LSC-eligible agricultural worker population). LSC contracted with the Department of Labor’s Employment and Training Administration (ETA) to provide estimates of the LSC-eligible agricultural worker population.

LSC ANALYSIS

Identifying the Agricultural Worker Population

The analysis conducted to identify the agricultural worker population that can be served most effectively and efficiently with specialized legal assistance and delivery approaches incorporated information from the following sources.

- *Internal LSC data sets.* These include grantee staffing, funding, and Case Services Reports (CSR) data; information in Program Quality Visit Reports conducted by the Office of Program Performance (OPP) and Case Service Report/Case Management System Review Reports conducted by the Office of Compliance and Enforcement (OCE); grant applications; and other documents.
- *Literature review.* Documents reviewed include government reports, academic and other research publications, and reports and publications of groups with subject-matter expertise. These documents are listed in Appendix C.
- *Interviews.* Interviews were conducted with individuals with expertise and knowledge regarding the demographic characteristics, social, health and economic status, legal issues and related information about agricultural workers and their dependents. These included current and former staff of government agencies, academics and other researchers, and staff of organizations with subject-matter expertise. Appendix D provides a list of those interviewed.
- *Surveys of LSC Grantees.* Separate Agricultural Worker Population surveys were conducted of the LSC grantees that receive Migrant Grants (Migrant Grantee Survey) and the basic field programs that do not receive Migrant Grants (Basic Field Grantee Survey). All of the 31 programs that receive Migrant Grants responded to the survey,

for a response rate of 100%. Of the 103 basic field programs that do not receive Migrant Grants, 70 responded to the survey, for a response rate of 68%. The survey instruments are provided in Appendices E and F.

- *Consultations* with:
 1. Executive directors and staff of LSC grantees, members of the National Legal Aid and Defender Association (NLADA) Agricultural Workers Group Project, and managers and staff of other providers of legal services to agricultural workers and their dependents.
 2. Staff of the U.S. Department of Labor Employment and Training Administration (ETA), the contractors ETA hired to develop the estimate, and the members of the expert panel the ETA contractor convened to obtain input in the development of the estimation methodology.

Definition of the “LSC-Eligible Agricultural Worker Population” for ETA Population Estimates

The ETA estimate of the LSC-eligible agricultural worker population includes agricultural workers and their dependents who have incomes less than 100% of the U.S. poverty line. Although income eligibility for LSC-funded services is 125% of the poverty guidelines published annually by the U.S. Department of Health and Human Services,¹⁶ Congress requires LSC to allocate funding among geographic areas based on the Census Bureau’s estimates of the poverty population. The Census Bureau estimates are based on 100% of the poverty line.

The ETA estimate of the LSC-eligible agricultural worker population includes only those persons who meet the LSC eligibility criteria regarding citizenship and alien status as set forth in Part 1626 of the LSC Regulations. LSC management recommends that the allocation for farmworker funding should be adjusted for eligibility criteria regarding citizenship and alien status because of the large proportion of the agricultural worker population that is unauthorized – approximately 50%.¹⁷ Simply put, LSC funding should not be allocated for grants to serve agricultural workers and diverted from basic field grants to the extent credible data show that a material proportion of the agricultural worker population would not likely be eligible for LSC-funded services. Although LSC’s basic field grants are allocated based on Census data without adjustment for citizenship and alien status, unauthorized immigrants comprise only about 3.6% of the total U.S. population.¹⁸

¹⁶ 45 C.F.R. § 1611(c)(1).

¹⁷ U.S. DEP’T OF LABOR, EMP’T & TRAINING ADMIN., NATIONAL AGRICULTURAL WORKERS SURVEY (NAWS), PUBLIC DATA SETS, <http://www.doleta.gov/agworker/naws.cfm> (last visited Jan. 15, 2015).

¹⁸ This is calculated from American Community Survey (ACS) data and estimates developed by Jeffrey S. Passel and D’Vera Cohn. According to the 2012 American Community Survey (ACS) 1-year estimates the total U.S. population was 313.9 million people. Passel and Cohn estimated that there are 11.2 million unauthorized persons in the U.S. ($11.2 \div 313.9 = 3.57\%$). AMERICAN COMMUNITY SURVEY, <http://www.census.gov/acs/www/> (last visited Jan. 16, 2015) and Jeffrey S. Passel & D’Vera Cohn,

ETA ESTIMATION OF THE SIZE AND GEOGRAPHIC DISTRIBUTION OF THE LSC-ELIGIBLE AGRICULTURAL WORKER POPULATION

ETA contracted with JBS Associates (JBS) to develop the estimates of the size and distribution of the LSC-eligible agricultural worker population. Appendix A provides JBS's memorandum setting forth in detail the methodology used to develop these estimates. A summary of the methodology is provided here.

In developing the estimation method, JBS relied on the input of a panel of experts and reviewed the methods used by other federal agencies to estimate their service populations.¹⁹ The estimation methodology was based on a "top down" approach -- using national data sources to develop an estimate of the total U.S. agricultural worker population and consistent data sources and methods to estimate each state's share of that total population. In the judgment of the expert panel and ETA, this top down method provides better reliability and validity than other approaches.

There are no U.S. Census Bureau or other available data sets that provide comprehensive, reliable information regarding the size, distribution, economic and demographic characteristics, of the agricultural worker population in the U.S. Consequently, the estimates ETA provided LSC are based on a methodology that uses a combination of data sources. ETA believes that these are the best available data sets, and farmworker demographic experts consider the ETA estimation methodology the best approach for developing accurate, reliable estimates of the farmworker population.

Data from the following sources were used in these calculations: the United States Department of Agriculture (USDA) 2012 Census of Agriculture (COA), the USDA Farm Labor Survey (FLS), the Department of Labor (DOL) Bureau of Labor Statistics' Quarterly Census of Employment and Wages (QCEW), the DOL National Agricultural Workers Survey (NAWS), the DOL Office of Foreign Labor Certification (OFLC) H2-A and H-2B worker certification data, the DOL "Adverse Effect Wage Rate" (AEWR) data, and the U.S. Census Bureau poverty thresholds.

Unauthorized Immigrant Totals Rise in 7 States, Fall in 14: Decline in Those From Mexico Fuels Most State Decreases" (Pew Research Ctr.'s Hispanic Trends Project, Nov. 2014), <http://www.pewhispanic.org/2014/11/18/unauthorized-immigrant-totals-rise-in-7-states-fall-in-14/> (last visited Jan. 16, 2015).

¹⁹ The panel of experts consisted of: Dr. Edward Kissam, trustee of the Werner Konhnstamm family fund and long-term farmworker researcher involved in population estimates; Dr. Phil Martin, professor of agricultural economics at the University of California Davis and author of several publications on estimating farmworkers; and Dr. Don Villarejo, founder and retired director of the California Institute for Rural Studies and an expert in farmworker data.

The following are the specific data sets used in the calculations to develop the estimates of the LSC-eligible agricultural worker population:

- The *base estimate of the number of agricultural workers* in each state was calculated using data from the COA, the NAWS, and the FLS. (The base number of forestry workers employed QCEW data rather than FLS data.)
- The *base estimate of the number of LSC-eligible agricultural workers (and their dependents) (i.e., household income below poverty line and citizenship or alienage eligibility based criteria of Part 1626 of the LSC Regulations)* in each state was calculated using the U.S. Census Bureau poverty thresholds and data from the NAWS.
- The *number of LSC-eligible agricultural workers (and their dependents) who are temporarily out of the agricultural workforce* in each state was calculated using the U.S. Census Bureau poverty thresholds and data from the COA, the NAWS, and the FLS.
- The *number of LSC-eligible retired agricultural workers (and their dependents)* in each state was calculated using the U.S. Census Bureau poverty thresholds and data from COA, the NAWS, and the FLS.
- The *number of LSC-eligible H-2A agricultural workers and H-2B forestry workers* in each state was calculated using the U.S. Census Bureau poverty thresholds, AEWR data, OFLC H2-A and H-2B worker certification data, and data from the NAWS.

The estimates developed through the calculations identified above were then used to calculate the estimates of the LSC-eligible agricultural worker population for each state and in the U.S.

The estimates of the LSC-eligible agricultural worker population for each state is equal to the sum of:

- The base estimate of the number of LSC-eligible agricultural workers (and their dependents) in the state;
- The total number of LSC-eligible agricultural workers (and their dependents) who are temporarily out of the agricultural workforce in the state;
- The total number of LSC-eligible retired agricultural workers (and their dependents) in the state; and
- The total number of number of LSC-eligible H-2A agricultural workers and H-2B forestry workers in each state.

The estimate of the total LSC-eligible agricultural worker population in the U.S. is the sum of all of the states' LSC-eligible agricultural worker populations.

SECTION III LSC FUNDING OF FARMWORKER LEGAL SERVICES

LSC has provided funding for specialized legal assistance to migrant and seasonal farmworkers since LSC's establishment.²⁰ This has been based on LSC's determination that specialized services were needed to ensure the provision of legal assistance that would most effectively and efficiently address the particular access difficulties and legal problems this population faced. This targeted funding parallels the approach Congress has adopted to address the particular needs of farmworkers in a wide range of other areas.

A. LSC's Legal Authority for Sub-Population Grants

The LSC Act provides broad general authority for LSC grantmaking for "the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance." 42 U.S.C. § 2996b(a). Section 1006(a)(1) of the LSC Act authorizes LSC "(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients . . . and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions [of the LSC Act.]" 42 U.S.C. § 2996e(a)(1)(A) and (B). Starting in 1996, Congress has appropriated almost all grant funds (with the exception of funds for Technology Initiative Grants and Pro Bono Innovation Fund Grants) in a single broad category – basic field programs providing direct legal services. The LSC Act does not further define the nature of those grants and leaves to LSC the discretion to determine what types of grants to provide to "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." 42 U.S.C. § 2996f(a)(3).

In the 1977 reauthorization of the LSC Act, Congress recognized the needs of special populations by requiring LSC to conduct a study of the legal needs of migrants and seasonal farmworkers and other specific subpopulations and to implement methods of addressing those needs. Pub. L. 95-222, § 13, adding § 1007(h) of the LSC Act, codified at 42 U.S.C. § 2996f(h). Section 1007(h) of the LSC Act provides:

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

²⁰ This funding built on and expanded the legal assistance previously funded by the Legal Services Program of the Office of Economic Opportunity (OEO) and the Department of Labor.

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.

As directed by Congress, LSC's Section 1007(h) Study (hereafter, 1007(h) Study), issued in 1979, identified each of these population's access difficulties and special legal problems and also identified the measures LSC should implement to ensure these groups' legal needs were addressed most effectively and efficiently.²¹ LSC implemented a range of measures to ensure the particular needs of each of these populations were met. It determined that earmarked funding was needed to ensure that the requisite capacities were in place to serve two of these populations: Native Americans and migrant and seasonal farm workers. Earmarked grants for legal assistance to these groups have continued ever since then.

B. Historical Rationale for Earmarked Funding for Farmworker Legal Services

LSC Section 1007(h) Study

The 1007(h) Study articulated the rationale for earmarked funding for legal assistance to migrant and seasonal farmworkers.²² It concluded that "migrant farmworkers face five significant barriers to access to legal services that are special and arise out of the type and conditions of work in which they are engaged and out of their cultural and ethnic background."²³ These are:

- Physical barriers, *e.g.*, distance, migrants' lack of transportation, work hours that conflict with legal services office hours, and housing in labor camps to which legal services personnel are denied access;
- The limited time migrants are in a program's service area;
- Migrants' limited English proficiency;
- The inability or unwillingness of migrants to communicate about their working and living conditions, which "is because of their almost absolute economic dependence upon their employers and crew leaders;" and
- Migrants' view that the legal system is not a favorable means of resolving disputes and their reluctance to seek the assistance of legal aid programs.

²¹ LEGAL SERVICES CORPORATION, SPECIAL LEGAL PROBLEMS AND PROBLEMS OF ACCESS TO LEGAL SERVICES OF VETERANS, MIGRANT AND SEASONAL FARM WORKERS, NATIVE AMERICANS, PEOPLE WITH LIMITED ENGLISH-SPEAKING ABILITY, AND INDIVIDUALS IN SPARSELY POPULATED AREAS ("1007(h) Study") Vol. I, Chap. I (1979).

²² The 1007(h) Study's full analysis of migrant and seasonal farmworkers' special access needs and unmet special legal needs are elaborated in Volume I, Chapter I, Section III-D, and in Chapter V of the 1007(h) Study.

²³ *Id.* at 305-308.

The study found that seasonal farmworkers also faced barriers to legal assistance related to their dependence on employers (though this was not as great as migrants' dependence on employers), limited English proficiency, and their unwillingness to seek out lawyers or use the legal system to resolve their problems.

The study identified “four major areas presenting legal problems for migrant and seasonal farmworkers which are special and, according to our data, not fully met.” These areas are employment, immigration and discrimination related problems of non-citizens authorized to be in the U.S., public benefits, education, and migrants' housing. The study found that these workers also “faced particular problems with consumer and credit, problems that are aggravated by language and cultural difficulties.”²⁴

Based on these findings, the 1007(h) study made clear that LSC expected recipients of “Migrant Grants” to serve migrant farmworkers *and* seasonal farmworkers. However, LSC continued to allocate funding for services to this population based only on the estimated size of the population of migrant farmworkers. This discrepancy between the broader population actually served and the narrower population counted for purposes of determining funding allocations remains a part of LSC’s current funding of farmworker programs. The updated population count presented in this analysis addresses this inconsistency.²⁵

Federal Laws and Federal Programs Targeting Farmworkers

Congress has established a range of federal programs designed to provide the specialized services required to address the particular needs of migrant and other farmworkers. Nearly all of these programs serve populations broader than *migrant* farmworkers and their dependents. These include the following:²⁶

- The Migrant and Seasonal Farmworkers Program, administered by the Department of Education, provides vocational rehabilitation grants for targeted projects because “States with projects funded through this program are better equipped to provide *specialized services* needed to effectively serve migrant and seasonal farmworkers with disabilities.”²⁷

²⁴ *Id.* at 313-315.

²⁵ See the discussion presented in Section VIII below.

²⁶ Other programs serving farmworker populations broader than migrants include the High School Equivalency Program (HEP) and the College Assistance Migrant Program (CAMP) educational programs, and the Rural Farm Labor Housing program. The Department of Education’s Migrant Education Even Start and Migrant Education Program focus exclusively on the needs of migrants and their dependents.

²⁷ U.S. Dep’t of Educ., *Migrant and Seasonal Farmworkers Program*, <http://www2.ed.gov/programs/rsamigrant/index.html> (last visited Jan. 15, 2015).

- The Migrant Health Center Program, administered by the Department of Health and Human Services, Health Resources and Services Administration, provides targeted funding for health centers to serve migrant and seasonal farmworkers, because they comprise a “special medically underserved population.”²⁸
- The Migrant and Seasonal Head Start Program, administered by the Department of Health and Human Services, Administration of Children and Families, Office of Head Start, seeks to accomplish the goals of all Head Start programs – ensuring a greater degree of social competency and school readiness within each child. It serves additional goals as well because Migrant and Seasonal Head Start “children and families have unique characteristics and circumstances that differentiate their program service needs from traditional Head Start children and families.”²⁹
- The National Farmworker Jobs Program, administered by the Department of Labor, Employment and Training Administration, provides employment and training services and housing assistance for migrant and seasonal farmworkers in order to “counter the chronic unemployment and underemployment experienced by MSFWs who depend primarily on jobs in agricultural labor performed within the United States and Puerto Rico.”³⁰
- The Migrant and Seasonal Farmworkers Monitor Advocate System, administered by the Department of Labor, Employment and Training Administration, seeks to ensure that the services provided migrant and seasonal farmworkers are “qualitatively equivalent and quantitatively proportionate” to the services provided to other jobseekers. This means that MSFWs should receive all workforce development services, benefits and protections on an equitable and non-discriminatory basis (i.e. career guidance, testing, job development, training, and job referral).³¹

Thus, earmarked funding for legal services to migrant and seasonal farmworkers parallels the approach Congress has adopted to meet the particular needs of migrants and other farm workers in the areas of education, health, and employment.

²⁸ Health Care Consolidation Act of 1996, Pub. L. No. 104-299, § 330(g), 110 Stat. 3628 (1996).

²⁹ U.S. DEP’T OF HEALTH AND HUMAN SERV., ADMIN. FOR CHILDREN AND FAMILIES, OFFICE OF HEAD START, EFFECTIVE PARTNERSHIPS GUIDE: IMPROVING ORAL HEALTH FOR MIGRANT AND SEASONAL HEAD START CHILDREN AND THEIR FAMILIES, <http://eclkc.ohs.acf.hhs.gov/hslc/states/collaboration/docs/effective-partnerships-guide-oral-health-mshs-v3.pdf> (last visited Jan. 15, 2015).

³⁰ U.S. DEP’T OF LABOR, EMP’T AND TRAINING ADMIN., THE NATIONAL FARMWORKER JOBS PROGRAM, <http://www.doleta.gov/Farmworker/html/NFJP.cfm> (last visited Jan. 15, 2015).

³¹ U.S. DEP’T OF LABOR, EMP’T AND TRAINING ADMIN., MIGRANT AND SEASONAL FARMWORKERS MONITOR ADVOCATE SYSTEM, <http://www.doleta.gov/programs/msfw.cfm> (last visited Jan. 15, 2015).

C. LSC Funding for Farmworker Legal Assistance Since 1974

Farmworker Funding Prior to FY1996

The earmarked funding LSC has provided for migrant legal services built on the legal assistance previously funded by the Legal Services Program of the Office of Economic Opportunity (OEO) and the Department of Labor. LSC funding allocations to Migrant Grants from the early 1980s through FY1996 reflected policies implemented by LSC during the 1979-1981 periods, which immediately followed the issuance of the 1007(h) Study. Starting in 1986, Congress set specific funding amounts (“lines”) for migrant legal services and several other funding categories or entities (*e.g.*, Native American grantees, national and state support, the National Clearinghouse) in LSC’s annual appropriation.³² These funding lines specified the *minimum* amounts of funding that LSC had to provide grantees for the identified purposes. The FY93 and FY94 appropriations laws specified the use of the Migrant Health Atlas³³ and the Larson-Plascencia study³⁴ to govern the distribution of funding *increases* among migrant programs.³⁵ (The total migrant population was derived from the Migrant Atlas; the distribution among states was based on the Larson-Plascencia enumeration.)

The relative share of LSC funding allocated by Congress to migrant, basic field and Native American budget lines remained stable throughout the FY82-FY95 period,³⁶ suggesting that

³² Making Continuing Appropriations for the Fiscal Year 1987, and for Other Purposes, Pub. L. No. 99-500, 100 Stat. 1783-69 (1986).

³³ U.S. DEP’T OF HEALTH AND HUMAN SERV., PUB. HEALTH SERV., HEALTH RES. AND SERV. ADMIN., BUREAU OF HEALTH CARE DELIVERY AND ASSISTANCE, MIGRANT HEALTH PROGRAM, AN ATLAS OF STATE PROFILES WHICH ESTIMATE NUMBER OF MIGRANT AND SEASONAL FARMWORKERS AND MEMBERS OF THEIR FAMILIES (1990) (Migrant Health Atlas), *available at* <http://files.eric.ed.gov/fulltext/ED332857.pdf>.

³⁴ ALICE C. LARSON & LUIS PLASCENCIA, MIGRANT ENUMERATION PROJECT, (Tomas Rivera Center, Univ. of Tex at San Antonio 1993).

³⁵ Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, Pub. L. 102-394, 106 Stat. 1792, 1861 (1992) and Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994, Pub. L. 103-121, 107 Stat. 1153, 1184 (1993).

³⁶ The respective funding levels for Migrant Grants for the following years are illustrative (expressed as a percentage of the sum of migrant, basic field, and Native American grant funds): FY82 – when the 1979-1981 policies were first reflected in funding levels – 3.58%; FY85 – the year before Congress began setting funding floors – 3.60%; FY86 – the first year after floors were set – 3.40%; FY94 – the last year the Migrant Health Atlas-Larson-Plascencia numbers were used to specify allocation of migrant funding issues – 3.50%; and FY95 – the last year funding “lines” were set for migrant and other funding categories – 3.46%. The small variances in these numbers may have resulted from data inconsistencies (*e.g.*, the tables from which these data are drawn are from different data sets), shifts in the amounts going to categories other than migrant, basic field or Native Americans, rounding, etc.

Congress did not intend to change the migrant funding policy or allocations that LSC had set in 1981.

Farmworker Funding Since FY1996

The FY96 LSC appropriation eliminated all “lines” for special legal services except for Native American funding. LSC determined that the access barriers and unique legal needs of migrant and seasonal farmworkers and their dependents would be met most effectively and efficiently by continuing to provide grants for specialized assistance to this population. Accordingly, LSC notified Congress of its plans to continue providing Migrant Grants.³⁷ LSC then implemented the policy that has guided migrant funding until today. This policy’s major elements include:

- Funding for migrant legal services is based on the estimated size of the migrant poverty population in each geographic area. The funding for this population is “backed out” of the funding for the rest of a state’s poverty population.
- The 1990 Migrant Health Atlas figure used to estimate the total migrant population was 1,661,875.³⁸ LSC determined in 1995 that 70% of this population – 1,116,195 – had incomes below the poverty line.
- The distribution of the total migrant population among states is based on the Larson-Plascencia data.
- The Migrant Health Atlas and Larson-Plascencia estimates were used in the FY96 funding policy because they had the imprimatur of Congress; as noted above, the FY93 and FY94 LSC appropriations had required their use for allocating increases in migrant funding for those years.

LSC’s current funding for migrant services assumes that changes in the total size of the migrant population since the implementation of the FY96 policy (then based on 1990 data) have closely mirrored the changes in the size of the total US poverty population. (The increase in the total poverty population served by LSC grantees since the 1990 Census is 40.2%; the increase in the estimated size of the migrant population is 39.3%.) Based on this assumption, the current migrant population for LSC funding purposes is 1,619,982, which is 3.39% of the total poverty population served by LSC grantees.

³⁷ In December 1995 and March 1996, LSC President Alex Forger notified Congress of its plans to implement for FY1996 the migrant funding policy set forth above. Both communications requested that Congress notify LSC if it had objections to the migrant funding policy LSC intended to implement. Congress did not notify LSC of any such concerns. LSC’s final FY96 appropriation, enacted after the December 1995 communication, provided no language pertaining to migrant funding.

³⁸ Migrant Health Atlas, *supra* note 33, at 13 (Table II – Adjusted State Profiles).

SECTION IV

THE NEED TO UPDATE THE POPULATION ESTIMATES FOR ALLOCATING FUNDING FOR SPECIALIZED SERVICES TO THE AGRICULTURAL WORKER POPULATION

There are two reasons why the population estimates used to allocate funding for farmworker legal services need to be updated. First, the data on which the population estimates are based are over 20 years old. There have been many changes in the agricultural worker population during those 20 years that affect their number and characteristics. Second, the population on which funding allocations are based should match the population of agricultural workers that require specialized legal assistance and that are served by farmworker programs.

The Need for Current Data

As described in Section III regarding LSC's funding of specialized assistance for the agricultural worker population, the funding level for farmworker legal services since FY1996 has been based on data sets from the late 1980s and early 1990s. The total migrant population estimate implemented for FY1996 funding allocations was derived from the 1990 Migrant Health Atlas, which was based on data collected in 1987-1989, and poverty estimates from the early 1990s. Those estimates were updated in 2003 and 2013 based on the untested assumption that the migrant population had increased at the same rate as the total US poverty population.

The estimated distribution of the migrant population among states has since 1996 been based on the estimates of the 1993 Migrant Enumeration Project. Those estimates were based on data from sources including the 1990 Migrant Health Atlas, US Bureau of Labor Statistics (BLS) data from 1989-1991, Migrant Health and Migrant Education data from 1990 and 1991, and the 1987 Census of Agriculture. Those estimates were updated in 2003 and 2013 based again on the untested assumption that the migrant population in each state had increased at the same rate as the total US poverty population.

Discrepancy between the Population Base for Farmworker Funding and the Farmworker Population of Needing Specialized Services

The 1007(h) Study. Section III also noted that since 1979 there has been a discrepancy between the population base for determining farmworker funding, which is based on the migrant population, and the much broader agricultural worker population that requires and is provided specialized services by LSC grantees. The 1007(h) study concluded that specialized legal expertise and knowledge were needed to address the distinctive "unmet special legal problems" that migrants *and seasonal farmworkers* shared because of their status as farmworkers. Migrant Grantees were expected to serve migrant farmworkers, as well as seasonal farmworkers on non-status related issues, even though Migrant Grants were based on the size of the migrant population and "seasonal farmworkers are counted in the census figures used by the Corporation for funding allocations to field programs." Nonetheless, LSC

maintained the existing formula that allocated migrant funding based on the number of migrants in a service area.³⁹

The 1007(h) study reported that field programs had the legal expertise to assist seasonal farmworkers in their service areas on legal issues *unrelated* to their status as farmworkers. However, “[c]reating a duplicate delivery system for farmworkers – one for [farmworker] status-related problems and another for other problems – may often be impractical, if not impossible. . . .” because a range of factors constrained the ability of field programs to provide these services effectively. For example, migrants and seasonal farmworkers often shared the same language and culture, lived in the same communities, had close family and social ties, and had similar legal needs, and as “a natural result of intense caseload and other pressures,” basic field programs might routinely refer to the migrant program Spanish-speakers or “those who appear to be ‘migrants.’”⁴⁰

The 1007(h) study stated that decisions on how to resolve this access problem would be left to local programs, but “with continuing monitoring and oversight” by LSC staff. If local programs did “resolve this access problem on their own,” LSC would consider “require[ing] the migrant components to serve only migrants,” or “altering the service and funding allocation formulas.”⁴¹

The McKay Letter. LSC management did not formally address this issue until 2000, when LSC President John McKay sent a letter to directors of LSC grantees that provided guidance about the scope and focus of migrant legal services grantees’ work. The McKay letter emphasized that the “factors enumerated in the 1007(h) Study are as true as they were 22 years ago.” To address eligible clients’ legal needs, the letter stated that LSC expected migrant legal services projects to “primarily represent those clients in need of legal assistance from a specialized migrant unit because (1) they are faced with barriers which otherwise restrict clients’ access to legal assistance and (2) they have specialized legal needs which arise from their work in agriculture and status as a farmworker.”

The letter broadly defined the universe of agricultural workers that migrant programs should serve. It affirmed that migrant programs should serve seasonal farmworkers and also stated that these programs should serve clients conducting “some types of work, not typically thought of as ‘farm work’ or agricultural employment.” The additional types of work were forestry, nursery work, cotton ginning, mushroom growing, seed conditioning, pine bough tying, aloe vera processing, work on sod farms, work in meat and poultry processing plants, livestock and feed lot work, shepherding, work on egg farms, and tobacco housing, stripping, and warehousing.

³⁹ 1007(h) Study, *supra* note 21 at 315.

⁴⁰ *Id.* at 311.

⁴¹ *Id.* at 38-40.

The identification of an expanded universe of agricultural workers that migrant programs should serve – and in fact were already serving – did not result in a similar change in the funding formula. Allocations were still based on the size of the migrant population. However, the McKay letter effectively endorsed a dual farmworker delivery system discussed in the 1007(h) study, as it advised Migrant Grantees to focus their work on issues related to clients' status as migratory and agricultural workers, leaving to basic field programs representation of those workers on issues not related to their status as migratory and agricultural workers.

SECTION V

UNIQUE LEGAL NEEDS OF AGRICULTURAL WORKERS

The unique legal needs of farmworkers and their dependents arise from the nature of agricultural work and the laws and regulations that have particular significance for the agricultural workforce, and the limitations of the agencies responsible for enforcing these laws and regulations.

A. The Nature of Agricultural Work

The Dangers and Physical Demands of Agricultural Work

Government data regarding occupational fatality and injury rates reflect that agricultural work is highly dangerous and physically demanding. In 2013, for example, the fatality rate for the farming, fishing, and forestry industry was seven times the rate for all private industry. The fatality rate was 69% higher than for the industry with the next highest rate (transportation and warehousing).⁴²

The farming, fishing, and forestry industry category likewise had the highest rate of nonfatal occupational injuries and illnesses among private industry. In 2013, its rate was 71% higher than the rate for all private industry and, 43% higher than the industry with the next highest rate (construction).⁴³

Agricultural workers experience especially high rates of heat stress, musculoskeletal pain, respiratory illness, and gastrointestinal illness. Because of the extensive use of pesticides and the proximity of farmworker housing to the fields, the agricultural workers and their families suffer from significantly elevated rates of pesticide poisoning. These workplace hazards are compounded by the conditions of farmworker housing that are discussed below.⁴⁴

⁴² U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, CENSUS OF FATAL OCCUPATIONAL INJURIES CHARTS, 1992-2013 (PRELIMINARY DATA), <http://www.bls.gov/iif/oshcfoi1.htm#2013> (last visited Jan. 16, 2015).

⁴³ U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, TABLE 5. INCIDENCE RATE AND NUMBER OF NONFATAL OCCUPATIONAL INJURIES BY SELECTED INDUSTRIES AND OWNERSHIP, 2013, <http://www.bls.gov/news.release/osh.t05.htm> (last visited Jan. 16, 2015).

⁴⁴ Wide-ranging research, including numerous studies supported by the National Institute for Occupational Safety and Health (NIOSH), has documented the health status of the farmworker population. See Don Villarejo, *Health-Related Inequities Among Hired Farm Workers and the Resurgence of Labor-intensive Agriculture* (The Kresge Foundation, Troy, Michigan, 2012) (providing a very useful overview of much of the literature); Thomas Arcury & Sara A. Quandt, *Living and Working Safely: Challenges for Migrant and Seasonal Farmworkers* 72(6):466-70 (N. C. Med. J. Nov.-Dec. 2011); G.M. Calvert, J. Karnik, L. Mehler, J. Beckman, B. Morrissey, J. Sievert, R. Barrett, M. Lackovic, L. Mabee, A. Schwartz, Y. Mitchell, & S. Moraga-McHaley, *Acute pesticide poisoning among agricultural workers in the United States, 1998-2005*, 51(12):883-98 (American J. Of Indus. Med., Dec.

These workplace hazards are exacerbated by insufficient field sanitation facilities, as significant numbers of agricultural workers lack required drinking water, toilets, and hand washing facilities in the fields where they work. According to the most recent National Agricultural Workers Survey, 6% of workers were provided no water and no cups, 2% were not provided toilets and 2% were not provided water for washing their hands.⁴⁵

It should be noted that because of data limitations the actual prevalence of workplace injuries may be significantly higher than reported. Farms with fewer than 11 employees comprise 93% of all farms and employ 46% of all hired workers and such farms are not required to report occupational injury data.⁴⁶ Research indicates that workers on small farms have higher rates of occupational injuries than workers on larger farms.⁴⁷ In addition, the U.S. Government Accountability Office (GAO) reports that underreporting of occupational injuries likely results from shortcomings of the data collection procedures of the Bureau of Labor Statistics (BLS) and the Occupational Safety and Health Administration (OSHA). GAO also found “disincentives that affect workers’ decisions to report work-related injuries and illnesses and employers’ decisions to record them.” The employer disincentives lie in potentially increased worker compensation costs and adverse impacts on obtaining contracts that result from higher injury rates. Worker disincentives include fear of job loss and other retaliatory actions.⁴⁸

2008); K. Emmi, K. Jurkowski, N. Codru, E. Bell, M. Kacica, & T. Carter, *Assessing the health of migrant and seasonal farm workers in New York State: statewide data 2003-2005* 21(2):448-63 (J. of Health Care for the Poor and Underserved, May 2010); R. Mines, J. Hausman, & L. Tabshouri, *The Need for Targeted Surveys of Farm workers: A Comparison of the California Health Insurance Survey (CHIS) and the California Agricultural Workers Health Survey (CAWHS)* (Cal. Inst. for Rural Studies, Davis, CA 2005); A. Steege, S. Baron, & X. Chen, *Occupational Health of Hired Farm Workers in the United States, National Agricultural Workers Survey, Health Supplement*, 1999. (Nat’l Inst. for Occupational Safety and Health, NIOSH Publ’n No. 2009-119, 209); U. S. Ctr. for Disease Control and Prevention, *Heat-related deaths among crop workers – U. S., 1992-2006* 57(24):649-53 (Morbidity and Mortality Weekly Report, June 2008); Maria, Stoecklin-Mariosa, Tamara Hennessey-Burt, Dianne Mitchell, & Marc Schenker, *Heat Related Illness Knowledge and Practices Among California Hired Farmworkers in the MICASA Study* 51(1):47-55 (Industrial Health, 2013); and the papers prepared for the Transdisciplinary Conference on Farmworker Housing Quality and Health, Crystal City, Va. (Nov. 11, 2014).

⁴⁵ NAWS, *supra* note 17.

⁴⁶ U.S. DEP’T OF AGRIC., NAT’L AGRICULTURAL STATISTICS SERV., 2012 CENSUS OF AGRICULTURE, Vol. 1 Geographic Area Series Part 51, 300 (2014) (2012 Census of Agriculture) (Table 7. Hired Farm Labor – Workers and Payroll: 2012), *available at* http://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1,_Chapter_1_US/usv1.pdf.

⁴⁷ VILLAREJO, HEALTH-RELATED INEQUITIES AMONG HIRED FARM WORKERS AND THE RESURGENCE OF LABOR-INTENSIVE AGRICULTURE 7-8.

⁴⁸ U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-10-10, WORKPLACE SAFETY AND HEALTH. ENHANCING OSHA’S RECORDS AUDIT PROCESS COULD IMPROVE THE ACCURACY OF WORKER INJURY AND ILLNESS DATA, (2009).

Agricultural Work Is Generally Temporary, Insecure and Low-Paid

Temporary nature of agricultural work. Because of the seasonal nature of much farm work and the varying demands for labor, few crop workers work year-round. NAWS data show that for the 1995-2009 period, the average number of weeks per year that crop workers were employed in agriculture ranged from 24 to 35.⁴⁹ Over the 2005-2009 period, three crop workers in four were employed for less than nine months a year in farm work.⁵⁰

Insecurity of agricultural work. Agricultural workers' employment is also insecure because the agricultural labor market has a surplus of workers. According to one study, "there are 2 to 2.5 farm workers for each year-round equivalent job."⁵¹ Agriculture typically has unemployment rates twice those of other private wage and salary workers.⁵² Although this gap narrowed in recent years because of the significant increases in non-farm unemployment caused by the 2008 recession, the unemployment rates for agricultural workers in 2012 and 2013 were 12.4% and 10.1%, respectively, in contrast to unemployment rates for other private wage and salary workers, which were 7.9% and 7.2%.⁵³

Low compensation for agricultural work. Compensation for agricultural work is very low relative to compensation for other workers. Median weekly wages of all full-time agricultural workers are 55% of the wages paid to all wage and salary full-time workers.⁵⁴ Full-time crop workers earn only 53% of the median weekly wages of all wage and salary full-timers. The median weekly earnings of livestock workers and crop workers both fall below the median level for major "low skill occupations," with crop workers earning less than all of these workers, except for dishwashers.⁵⁵

⁴⁹ NAWS, *supra* note 17.

⁵⁰ BON APPETIT MGMT CO. FOUND. & UNITED FARM WORKERS, INVENTORY OF FARMWORKER ISSUES AND PROTECTIONS IN THE U.S. 15 (United Farm Workers, March 2011), *available at* http://www.ufw.org/pdf/farmworkerinventory_0401_2011.pdf.

⁵¹ PHILLIP MARTIN, FARM LABOR AND H-2A (Univ. of Cal.-Davis, 2014).

⁵² WILLIAM KANDEL, ECON. RESEARCH REPORT NO. 60, PROFILE OF HIRED FARMWORKERS: A 2008 UPDATE 16-19 (U.S. Dep't of Agric., July 2008).

⁵³ U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, HOUSEHOLD DATA ANNUAL AVERAGES, 26. UNEMPLOYED PERSONS BY INDUSTRY, CLASS OF WORKER, AND SEX, <http://www.bls.gov/cps/cpsaat26.pdf> (last visited Jan. 16, 2015).

⁵⁴ U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, HOUSEHOLD DATA ANNUAL AVERAGES, 39. MEDIAN WEEKLY EARNINGS OF FULL-TIME WAGE AND SALARY WORKERS BY DETAILED OCCUPATION AND SEX, <http://www.bls.gov/cps/cpsaat39.pdf> (last visited Jan. 16, 2015). *See also* KANDEL, *supra* note 52 at iv.

⁵⁵ KANDEL, *supra* note 52 at iv, 20-23.

Because of intense labor demands during the growing season, agricultural workers often work long hours: in the 2005-2009 period, 51% of crop workers averaged working 41-60 hours a week and 8% averaged working more than 60 hours a week. During the same period, 51% of crop workers averaged working six or more days a week.⁵⁶

B. Laws and Regulations That Affect Agricultural Workers

The federal laws that have the most significance for agricultural workers are the Fair Labor Standards Act; the Migrant and Seasonal Agricultural Worker Protection Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Occupational Safety and Health Act; the National Labor Relations Act; and the Immigration and Nationality Act. The following is a very brief summary of the provisions of these laws that have the most significant impact on agricultural workers' well-being and legal needs.⁵⁷

*The Migrant and Seasonal Agricultural Worker Protection Act (AWPA).*⁵⁸ The Act contains provisions with protections for migrant and seasonal workers related to pay, working conditions, housing, and transportation.

Key provisions

- AWPA requires employers to:
 1. Inform workers of the terms of employment at the time they are recruited;
 2. Comply with the employment terms related to wages and hours and other issues such as housing and transportation, if they are provided; and
 3. Confirm that the farm labor contractors they use are registered with and licensed by DOL.
- AWPA also requires that:
 1. Farmworker housing meets local and federal housing standards; and

⁵⁶ BON APPÉTIT MGMT CO. FOUND., *supra* note 50, at 14.

⁵⁷ For summaries of these laws and regulations as they apply to agricultural workers see Jack Runyan, *Summary of Federal Laws and Regulations Affecting Agricultural Workers*, (U.S. Dep't of Agric., Econ. Research Serv., July 2000); Susan Reed & Ilene Jacobs, *Serving Farmworkers* 38:5-6 (Clearinghouse Review, Sept.-Oct. 2004); OxFam Am., *Like Machines in the Fields: Workers without Rights in American Agriculture* (OxFam Am. Rep., 2004); Bon Appétit Mgmt. Co. Found. & United Farm Workers, *Inventory of Farmworker Issues and Protections in the United States* (2011); Megan Horn & Nicholas Marritz, *Unfinished Harvest: The Agricultural Worker Protection Act at 30* (Farmworker Justice, 2013); William Beardall (ann. by Gregory Schell), *Migrant and Seasonal Agricultural Worker Protection Act, Outline and Annotations, March 2014 Update* (Tex. Equal Justice Ctr., Austin, Tex.); and William Beardall (ann. by Gregory Schell), *Outline of Fair Labor Standards Act in Agriculture and Related Employment, March 2014 Update*, (Tex. Equal Justice Ctr., Austin, Tex.).

⁵⁸ Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. §§ 1801-1872.

2. Providers of agricultural workers' transportation certify that the vehicles they use meet appropriate safety standards and are insured.
- The AWPAs "joint employer" provision specifies that if a worker has been hired through a farm labor contractor (FLC), *both* the grower and the FLC are subject to AWPAs' requirements. This provision is designed to prevent growers from evading responsibility for violations of their employees' rights by asserting that the FLCs are the employers and, therefore, are solely responsible for these violations.
 - AWPAs provide workers a private right of action.

The survey of LSC Farmworker Programs found that 93.3% of the programs provided representation to agricultural workers with regard to AWPAs violations related to the terms of employment, including housing and transportation standards.

The Fair Labor Standards Act (FLSA).⁵⁹ FLSA contains provisions governing minimum wages, overtime, child labor, and recordkeeping.

Key provisions

- FLSA requires employers to pay workers for all hours worked and to pay workers at least the federal minimum wage. However, farms with fewer than 11 employees (which comprise 93% of all farms and employ 46% of all hired workers)⁶⁰ are exempt from the federal minimum wage requirement.
- The law exempts all agricultural employers from paying overtime wages (*i.e.*, at least 1.5 times the regular pay rate) for time worked in excess of 40 hours a week.
- FLSA also exempts agricultural employers from child labor requirements that apply to other employers. "Consequently," GAO notes, "children may work in agriculture under circumstances that would be illegal in other industries."⁶¹ In most industries, employing workers younger than 16 is considered "oppressive child labor." In agriculture, however, 14 and 15 year-olds can work anytime outside of school hours, and children as young as 10 years old can be employed with the written consent of their parents.
- FLSA provides workers a private right of action.

The most common claims arising under FLSA are for non-payment of wages, violations of child labor laws, and failure to provide required breaks. In response to the survey conducted in support of this analysis, 97% of the Migrant Grantees indicated that agricultural workers in their

⁵⁹ Fair Labor Standards Act, 29 U.S.C. §§ 201-219.

⁶⁰ 2012 Census of Agriculture, *supra* note 46, at 300f (Table 7. "Hired Farm Labor – Workers and Payroll: 2012").

⁶¹ Government Accountability Office, *Child Labor in Agriculture: Changes Needed to Better Protect Health and Educational Opportunities*, GAO/HEHS-98-193, 1998.

area have wage claims and claims arising from other FLSA violations. Eighty-nine percent (89%) separately indicated that child labor law violations were problematic. The most common claims arising under FLSA are for non-payment of wages, violations of child labor laws, and failure to provide required breaks.

*Occupational Safety and Health Act (OSHA).*⁶² The OSHA is the primary federal law to protect the health and safety of workers.

Key provisions

- With regard to agricultural workers, employees are required to:
 1. Meet standards for temporary camps;
 2. Meet field sanitation standards requiring that require employers to provide workers with drinking water, toilet facilities, and hand washing facilities in the fields;
 3. Provide safety devices for farm field equipment;
 4. Provide persons trained to provide first aid when these services are not near the workplace; and
 5. Meet safety requirements for slow-moving vehicles.
- Employers with fewer than 11 employees and without temporary labor camps are exempt OSHA worker protections. In addition, federal health and safety inspections of these establishments are prohibited. (As noted above, about half of hired workers are employed on these farms.)
- OSHA is prohibited from conducting inspections, investigations, and similar enforcement activities at these small farms. These prohibitions apply to safety or health inspections as well as actions to respond to employee complaints, or requests to investigate if employees are fired for making complaints, or to investigate fatalities, catastrophes, and accidents.
- There is no OSHA standard relating to musculo-skeletal injuries, among the most widespread injuries suffered by agricultural workers. (The Federal Insecticide, Fungicide and Rodenticide Act, discussed below, not the OSHA, governs workers' use of and exposure to pesticides.)
- OSHA provides workers with no private right of action.
- Common claims by agricultural workers under OSHA include failure meet requirements regarding temporary camps standards and field sanitation standards, and issues related to heat stress.

⁶² Occupational Safety and Health Act, 29 U.S.C. §§ 651-678; National Labor Relations Act, 29 U.S.C. §§ 151-169.

The LSC Migrant Grantee Survey found that 90% of the Migrant Grantees reported that agricultural workers have OSHA related issues. Common claims by agricultural workers under OSHA include failure meet requirements regarding temporary camps standards and field sanitation standards, and issues related to heat stress.

*The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).*⁶³ FIFRA provides for the federal control of pesticide distribution, sale, and use. It provides the basis for the Worker Protection Standard (WPS),⁶⁴ which is a regulation designed to protect agricultural workers and pesticide handlers.

Key provisions

- The WPS requires employers to:
 1. Provide workers with pesticide safety training, personal protective equipment and decontamination supplies;
 2. Notify workers of pesticide applications and restrict workers' entry into areas with pesticide application for specified periods; and
 3. Provide emergency medical assistance.
- FIFRA delegates to the U.S. Environmental Protection Agency (EPA) and state agencies enforcement and inspection duties to ensure compliance with the WPS. States assume responsibility for enforcement where they have an approved "state plan."

Ninety-seven percent (97%) of respondents to the Migrant Grantee survey indicated that the agricultural worker population in their service area encountered problems with violations of Worker Protection Standards and other EPA enforcement issues.

*The Immigration and Nationality Act (INA) provisions regarding temporary nonimmigrant workers.*⁶⁵ A significant number of non-immigrant, temporary agricultural workers (H-2A workers) are brought into the country each year through the H-2A program, which is authorized under the Immigration and Nationalization Act and administered by the ETA Office of Foreign Labor Certification (OFLC).⁶⁶ The INA also authorizes the admission into the U.S. temporary, nonimmigrant nonagricultural workers (H-2B workers) through the H-2B program.⁶⁷ Part 1626

⁶³ Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136-136y.

⁶⁴ JACK RUNYAN, SUMMARY OF FEDERAL LAWS AND REGULATIONS AFFECTING AGRICULTURAL WORKERS 16 (U.S. Dep't of Agric., Econ. Research Serv., July 2000).

⁶⁵ Immigration and Nationality Act, 8 U.S.C. §§ 1101-1537.

⁶⁶ The H-2A program and H-2A worker names are derived from the section of the INA under which the program is authorized: Section 101(a)(15)(h)(ii)(a) (8 U.S.C. 1101(a)(15)(h)(ii)(a)).

⁶⁷ The H-2B program and H-2B program names are similarly derived from the section of the INA under which the program is authorized: Section 101(a)(15)(h)(ii)(b) (8 U.S.C. 1101(a)(15)(h)(ii)(b)).

of the LSC Regulations allows grantees to serve all H-2A agricultural workers and H-2B forestry workers.

Employers must demonstrate that there are insufficient numbers of U.S. workers who are able, willing, and qualified to perform the needed work and that hiring these guest workers will not have “an adverse effect on the wages and working conditions of similarly employed U.S. workers.”

Key provisions

- Under the terms of the DOL-administered H-2A program, employers must:
 - Provide employees with a written contract (or similar document) that specifies, in a language the worker can understand, the terms and conditions of work (*e.g.*, pay rate, benefits, expenses, work periods, and work locations);
 - Pay workers at least the “adverse effect wage rate,” a level substantially above the federal and state minimum wage;
 - Provide workers with no-cost housing that meets applicable safety and health standards;
 - Guarantee a minimum amount of work;
 - Provide (or reimburse the worker for the costs of) inbound and outbound transportation between the jobsite and the worker’s home abroad, and subsistence en route;
 - Provide free daily transportation between the housing and the worksite; and
 - Provide worker’s compensation insurance or its equivalent.

The survey of LSC Migrant Grantees indicated that violations of the terms of employees’ contracts are a significant problem.⁶⁸ In addition, complaints of violations of H-2A workers’ rights under the terms of the North American Agreement on Labor Cooperation (NAALC) (the labor side-agreement to NAFTA) led to the U.S. Secretary of Labor and the Mexican Secretary of Labor and Social Welfare signing a “Joint Ministerial Declaration on Migrant Workers” to address concerns regarding “the labor rights of Mexican migrants working in the United States with H-2A and H-2B temporary work visas and the responsibilities of their employers.”⁶⁹

⁶⁸ The survey did not ask a specific question about H-2A violations. However, in response to a question regarding significant accomplishments of their work, 28% identified indicated that their most significant accomplishment involved H2-A violations.

⁶⁹ MINISTERIAL CONSULTATIONS JOINT DECLARATION BETWEEN THE DEPARTMENT OF LABOR OF THE UNITED STATES OF AMERICA AND THE SECRETARIAT OF LABOR AND SOCIAL WELFARE OF THE UNITED MEXICAN STATES CONCERNING MEXICAN NAO PUBLIC COMMUNICATIONS MEX 2003-1, MEX 2005-1, AND MEX 2011-1 UNDER THE NORTH AMERICAN AGREEMENT ON LABOR COOPERATION, *available at* <http://www.dol.gov/opa/media/press/ilab/ILAB20140543-US-Mex-Declaration.pdf>. For more

C. Factors Limiting Government Enforcement of Agricultural Workers' Rights

In spite of the protections provided by the federal laws described above, the constrained enforcement capacities of the government agencies responsible for each of the acts limit agricultural workers' ability to take advantage of the protections of these laws.

Reports by the GAO and other data sources indicate lack of sufficient staffing impairs enforcement of laws protecting agricultural workers. Relevant findings include the following:

- From 1997 to 2007, the annual number of the Department of Labor Wage and Hour Division's (WHD) enforcement actions for all industries decreased by more than a third, from approximately 47,000 actions in 1997 to just under 30,000 in 2007.⁷⁰
- In FY2002, only 0.6% of the investigations WHD conducted of labor law violations nationally involved agricultural employers. This fell to 0.5% in FY2008.⁷¹
- From FY1986 to FY2002 the number of investigations conducted under AWPFA fell 50%. The number of these investigations fell another 19% by FY2008, while from 2002-2008 the percent of employers found in violation remained constant at 60% of those investigated.⁷²
- The number of DOL's confirmed cases of child labor violations fell by 65% from 1997 to 2009.⁷³ As GAO has indicated, however, reductions in confirmed violations do not mean fewer violations are occurring. Noting that child labor violations reported by WHD declined by 70% from 1993 to 1997, the GAO stated that "weaknesses in enforcement and data collection procedures mean violations are not being detected."⁷⁴

information see U.S. Dep't of Labor, *News Release: Joint ministerial declaration on migrant workers signed by US Secretary of Labor, Mexican Secretary of Labor and Social Welfare*, <http://www.dol.gov/opa/media/press/ilab/ILAB20140543.htm> (last visited Jan. 16, 2015).

⁷⁰ U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-08-962T, FAIR LABOR STANDARDS ACT: BETTER USE OF AVAILABLE RESOURCES AND CONSISTENT REPORTING COULD IMPROVE COMPLIANCE 5 (2008).

⁷¹ FARMWORKER JUSTICE & OXFAM AM., WEEDING OUT ABUSES: RECOMMENDATIONS FOR A LAW-ABIDING FARM LABOR SYSTEM, 4 (2010), *available at* <https://www.farmworkerjustice.org/sites/default/files/documents/7.2.a.7%20weeding-out-abuses.pdf>.

⁷² *Id.*

⁷³ HUMAN RIGHTS WATCH, FIELDS OF PERIL: CHILD LABOR IN US AGRICULTURE, 74 (2010), <http://www.hrw.org/reports/2010/05/05/fields-peril> (last visited Jan. 16, 2015).

⁷⁴ U.S. GOV'T ACCOUNTABILITY OFFICE, GAO/HEHS-98-193, CHILD LABOR IN AGRICULTURE: CHANGES NEEDED TO BETTER PROTECT HEALTH AND EDUCATIONAL OPPORTUNITIES, 6 (1998).

- GAO reported that the Environmental Protection Agency (EPA) “has little assurance that the protections called for in the [Worker Protection] Standard are actually being provided to farmworkers generally or to children who work in agriculture.”⁷⁵
- In 2009 WHD cited only two violations of agricultural hazardous orders that accounted for only 0.14% of the 1,432 hazardous occupation violations it found that year.⁷⁶
- In 2009, OSHA conducted a total of only 26 inspections on crop farms in the 25 states where it is responsible for enforcing workplace safety standards.⁷⁷

Constraints on staffing limit federal and state agencies’ ability to enforce laws effectively to protect agricultural workers’ rights. For example, from 1997 to 2007, the total number of WHD investigators for all industries nationally, not just agriculture, fell by more than 20 percent, from 942 to 732.⁷⁸ In 2008, the Department of Labor had the equivalent of only 22 full-time investigators for the approximately 576,000 U.S. agricultural employers in the US.⁷⁹ Similarly, the state of North Carolina’s Department of Labor “has only seven inspectors to review all the 6,000 to 10,000 farmworker camps in the state for OSHA standards.”⁸⁰

Interviews with federal and state enforcement agencies’ managers also highlighted these agencies’ limited enforcement capacities. For example, John Trasviña, Dean of the University of San Francisco School of Law and former Special Counsel for Immigration Related Unfair Employment Practices for DOL and Assistant Secretary of the HUD Office of Fair Housing and Equal Opportunity, stated that “government agencies alone cannot effectively enforce the law” because of staffing limitations and insufficient connections with farmworker communities. Similar problems were cited by Ellen Widess, former Chief of the California Occupational Safety and Health Administration and former Director of the Texas Department of Agriculture’s Pesticide Program, and Ronald Javor, former Deputy Director and Staff Counsel of the California Department of Housing and Community Development.

⁷⁵ U.S. GOV’T ACCOUNTABILITY OFFICE GAO/RCED-00-40, PESTICIDES: IMPROVEMENTS NEEDED TO ENSURE THE SAFETY OF FARMWORKERS AND THEIR CHILDREN 5 (2000).

⁷⁶ HUMAN RIGHTS WATCH, *supra* note 73 at 79.

⁷⁷ BON APPETIT MGMT. CO. FOUND., *supra* note 50, at 36.

⁷⁸ U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-08-962T, *supra* note 70, at 6.

⁷⁹ BON APPETIT MGMT. CO. FOUND., *supra* note 50, at 20.

⁸⁰ Lara E. Whalley, Joseph G. Grzywacz, Sara A. Quandt, Quirina M. Vallejos, Michael Walkup, Haiying Chen, Leonardo Galvan, & Thomas A. Arcury, *Migrant Farmworker Field and Camp Safety and Sanitation in Eastern North Carolina* 14(4):9 (J. of Agromedicine 2009).

D. The Incidence of Legal Problems That Affect Agricultural Workers

As described above, government resources to enforce the legal rights of agricultural are limited. Accordingly, the surveys of LSC grantees and other sources of information indicate that agricultural workers often require the assistance of legal services lawyers to enforce their rights in these areas. A wide range of sources have analyzed the legal needs of agricultural workers and their dependents.⁸¹ Two additional data sources further highlight the areas in which agricultural workers commonly experience legal needs: (1) the Migrant Grantee Survey undertaken for this Report; and (2) a 2011 survey conducted by the Bon Appétit Management Company Foundation and the United Farm Workers (Bon Appétit/UFW survey) of farmworker legal services programs in four states with among the highest concentrations of agricultural workers in the country.⁸²

The Bon Appétit/UFW survey asked advocates to identify the five most common types of legal problems experienced by their clients. (Advocates in California, Florida, North Carolina and Washington responded to the survey.) The Migrant Grantee Survey asked programs to indicate the degree to which the farmworker population that it serves encounters various legal problems, including those typically associated with agricultural workers as well as those that affect the general population of low-income persons.⁸³

As the data in Table V show, these surveys yield similar results with respect to the legal problems that are especially significant for the agricultural worker population. In particular:

- Ninety-seven percent (97%) of Migrant Grantee survey respondents and all of the four Bon Appétit/UFW survey respondents indicated agricultural workers experience FLSA-related legal problems.
- Ninety-seven (97%) percent of Migrant Grantee survey respondents and all of the Bon Appétit/UFW survey respondents indicated the clients experience have legal problems related to sexual violence, harassment, or other civil rights-related issues.

⁸¹ In addition to the 1007(h) study, these include: Susan Reed & Ilene Jacobs, *Serving Farmworkers* 38:5-6 (Clearinghouse Review, Sept.-Oct., 2004); OxFam Am., *Like Machines in the Fields: Workers without Rights in American Agriculture* (OxFam Am. Rep., 2004); Bon Appetit Mgmt. Co. Found. & United Farm Workers, *Inventory of Farmworker Issues and Protections in the U.S.* 15 (United Farm Workers, March 2011); Megan Horn & Nicholas Marritz, *Unfinished Harvest: The Agricultural Worker Protection Act at 30* (Farmworker Justice, 2013); U.S. Comm'n on Agric. Workers, *Report of the Commission on Agricultural Workers*, 50 and 105-106 (1992); "Effective Delivery of Legal Services to Agricultural Workers," memorandum from NLADA Agric. Worker Project Grp. to Ronald S. Flagg, Gen. Counsel, and Bristow Hardin, Program Analyst (Dec. 8, 2014); and "The Need for Specialized Migrant Legal Services Programs," Luis Jaramillo, NLADA, Remarks at the Meeting of the Provisions Comm. of the Legal Serv. Corp. Bd. (Sept. 14, 2003).

⁸² BON APPETIT MGMT. CO. FOUND., *supra* note 50, at 10.

⁸³ The data for the Migrant Grantees are based on responses to survey question 5.

- Ninety-three (93%) percent of Migrant Grantee survey respondents and three of four of Bon Appétit/UFW survey respondents indicated that clients experience AWPA-related legal problems.
- Ninety percent (90%) of Migrant Grantee survey and all of Bon Appétit/UFW survey respondents indicated that clients encounter OSHA-related legal problems.
- Eighty-seven percent (87%) of Migrant Grantee survey respondents and all of Bon Appétit/UFW survey respondents indicated the clients experience Worker Protection Standard violations and related EPA-related legal problems.
- Eighty percent (80%) of Migrant Grantee survey respondents and all of Bon Appétit/UFW survey respondents indicated that clients experience trafficking-related issues.

The Migrant Grantee Survey also identified legal problems that the agricultural worker population experiences at much higher levels than the broader population, in particular, other employment-related issues, such as worker's compensation (identified by 97%), immigration or naturalization related-issues (identified by 93%), taxes (not related to the Earned Income Tax Credit) (identified by 93%),⁸⁴ and child labor (identified by 60%).

The results of the Migrant Grantee Survey also indicated that crop workers and livestock workers have similar legal needs. In particular, one of the questions asked about the extent to which seven different categories of workers experienced legal problems in each of nine different substantive issue areas: including wage and hour violations, AWPA violations, unsafe / unhealthy working conditions, unsafe / unhealthy housing conditions, discrimination, employer retaliation, sexual harassment / violence, child labor violations, and immigration.⁸⁵ In identifying the extent to which different workers had legal problems in these areas, the highest number of respondents consistently named migrant and seasonal crop workers and fruit and vegetable packing and processing workers. Livestock workers were consistently identified by the next highest percentage of respondents as having problems in each of these areas.⁸⁶

⁸⁴ Tax issues can be especially important to agricultural workers because employers may not report the information to the IRS or report incomplete or inaccurate information.

⁸⁵ Migrant Grantee Survey, question 11, attached as Appendix E.

⁸⁶ The other categories of workers were nursery and greenhouse workers, agriculture support workers (*e.g.*, cotton ginning, crop planting / grading), workers in forest nurseries or gathering forest products, and aquaculture workers (*i.e.*, farm raising and production of aquatic animals and plants).

Table V

| SUBSTANTIVE AREAS IN WHICH AGRICULTURAL WORKERS ENCOUNTER PROBLEMS | | |
|------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Substantive Area | % of LSC-funded Migrant Grantees' that identified the area as a problem for agricultural workers in their area | Top Five Areas of legal need Identified In Bon Appétit/United Farm Workers Study |
| Wage claims and other Fair Labor Standards Act (FLSA)-related issues | 97% | Non-payment of wages or violations of minimum wage laws – identified in all 4 States |
| Other employment related (e.g., worker's compensation) | 97% | |
| Civil rights (e.g., sexual harassment, employment discrimination) | 97% | Sexual abuse and sexual harassment – identified in three of 4 states |
| Migrant and Seasonal Agricultural Workers Protection Act (AWPA)-related issues | 93% | Substandard housing issues – identified in 3 of 4 states and violations of employer contracts – identified in 2 states |
| Immigration/naturalization | 93% | |
| Taxes | 93% | |
| Occupational Safety and Health Act (OSHA)-related issues | 90% | Violations of occupational safety and health– identified in all 4 states |
| Health (not OSHA-related or EPA-related) | 90% | |
| Environmental Protection Agency enforcement-related issues (Worker Protection Standard / pesticides) | 87% | Violations of or field sanitation standards – identified in all 4 states |
| Public benefits (other than Unemployment Insurance) | 87% | |
| Domestic violence | 87% | |
| Housing (not covered by AWPA) | 87% | |
| Trafficking | 80% | Human trafficking – identified in 3 of 4 states |
| Unemployment Insurance (UI) | 80% | |
| Consumer | 80% | |
| Family (other than domestic violence) | 80% | |
| Education | 73% | |
| Child labor | 60% | |
| Youth (other than child labor) | 47% | |

SECTION VI

FACTORS CREATING THE AGRICULTURAL WORKER POPULATION'S ACCESS BARRIERS

As described above, the surveys of LSC grantees and other sources of information indicate that agricultural workers often require the assistance of legal services lawyers to enforce their rights in these areas. A combination of factors, however, creates barriers to access to legal services to address the legal needs of the agricultural worker population. The characteristics of the agricultural worker population create these access barriers and can exacerbate their legal needs.

A. Who Agricultural Workers Are and Where They Are Employed

The terms “farmworker” and “agricultural worker” refer to hired workers as opposed to farm owners and their family members who work on their own farms. A very small number of the nation’s 2.1 million farms account for most agricultural production and employment of agricultural workers. According to the most recent USDA Census of Agriculture (COA), less than 4% of farms account for slightly more than two-thirds (67%) of the total market value of products sold.⁸⁷ About one in four (26.9%) farms hires workers. Of those farms, 7.2% employed 53.8% of all U.S. agricultural workers.⁸⁸ One in ten farms (10.3%) employ workers hired through Farm Labor Contractors (FLCs) – individuals or entities that hire farm laborers and contract them out to farms, and only 7.3% of these farms bore 79.1% of total farm labor contract expenses (the number of workers hired through contractors is not reported separately).⁸⁹

The need for hired labor varies significantly by product. For example, labor’s share of total cash expenses ranges from about 5% for products such as corn, soybeans and wheat, to 13-14% for dairy and poultry products to over 40% for fruits, vegetables and nursery crops. Two-thirds of the labor expenditures reported by farm employers to the Census of Agriculture are attributed to four commodities: fruits and nuts, 25%; nursery crops, 20%; vegetables, 12%; and dairy, 10%.⁹⁰

Overall, about three-fourths of hired agricultural workers are “crop workers” employed in the highly-mechanized production of crops like corn and wheat to labor-intensive planting, harvesting, and processing “high value” commodities such as vegetables, melons, fruits, and nuts, and in greenhouses and nurseries. Most of the remaining one-fourth of hired agricultural

⁸⁷ 2012 Census of Agriculture, *supra* note 46, at 245 (Table 1, State Summary Highlights: 2012”).

⁸⁸ *Id.* at 300 (Chapter 2, Table 7. Hired Farm Labor – Workers and Payroll: 2012).

⁸⁹ *Id.* at 11 (Chapter 1, Table 4. Farm Production Expenses: 2012 and 2007).

⁹⁰ RURAL MIGRATION NEWS, *Projections, Mechanization*,
<http://migration.ucdavis.edu/rmn/more.php?id=1804> (last visited Jan. 15, 2015).

workers work in raising livestock, such as beef and dairy cattle, swine, and poultry, including egg farms.

B. Different Worker Categories: Migrant and Settled Agricultural Workers, Direct-Hired and Contract Agricultural Workers, and Guest Workers

Migrant and Settled Agricultural workers

The agricultural workforce includes both migrant and settled workers. Migrants are workers who are absent from their permanent place of residence in order to seek employment in agricultural work, in contrast to those who are settled in or near the community in which they are employed.⁹¹ Historically, migrant agricultural workers have comprised a major portion of the U.S. agricultural workforce. The LSC 1007(h) Study provided detailed information about the different migrant “streams” in the East, Midwest, and West.⁹² In the late 1980s, somewhat over two in five (43%) agricultural workers were migrants. Their numbers increased after that, and by 1998 nearly three in five agricultural workers (59%) were migrants. Since then, however, their numbers have significantly declined, so that by 2011-2012 only 17% of agricultural workers were migrants.⁹³

Migrant farmworkers typically perform crop work (production of fruits, nuts, vegetables, melons, nursery products, etc.) or forestry tasks (such as tree planting) rather than livestock work. The percentage of farmworkers who are migrants varies widely across the country, with the highest in the East and the lowest in the West.

In general, migrant workers are more vulnerable than settled workers to unlawful practices by employers, especially because they are more dependent on employers for work, housing and transportation and more isolated geographically and socially. Migrant workers’ demographic characteristics also exacerbate their vulnerability. Compared to settled workers, migrant workers are younger; are more likely to be foreign born; are more likely to be recent immigrants; have lower educational attainment levels; are less likely to be proficient in English; are more likely to be indigenous to locations other than where they work; are more likely to be unaccompanied by any family members; and are more likely to be unauthorized.⁹⁴

⁹¹ There is no universally accepted definition of a migrant farmworker as various researchers and federal agencies employ different definitions. This analysis follows the definition used in the Department of Labor’s National Agricultural Workers Survey (NAWS): a migrant is “a person who reported jobs that were at least 75 miles apart or who reported moving more than 75 miles to obtain a farm job during a 12-month period.” NAWS, *supra* note 17.

⁹² 1007(h) Study, *supra* note 21 at 34.

⁹³ NAWS, *supra* note 17.

⁹⁴ NAWS, *supra* note 17.

Data from the Department of Labor’s National Agricultural Workers Survey (NAWS) reflect that migrant workers’ economic circumstances are generally worse than settled workers’ circumstances. Migrants generally have fewer weeks of farm employment annually; have lower incomes; are more likely to be poor; are more likely to live in substandard and crowded housing; and have less access to health care and other public services.⁹⁵

Direct-Hired and Contract Agricultural workers

Historically, a significant portion of the agricultural worker labor force has been recruited and employed by Farm Labor Contractors (FLCs). FLCs can range in size from a single individual (“crew leader”) to a large corporate entity, some of which are owned by individual growers or growers associations.

The description of the FLCs’ core functions in a 1974 Senate Report remains apt today:

Although the specific functions of the farm labor contractor, often called a “crew leader” or “crew pusher,” might vary from job to job, his role remains essentially the same – a bridge between the operator and the worker. In many instances, the contractor is not only the recruiter, hirer, and transporter, but acts as the supervisor, foreman, and paymaster as well. In addition, the contractor frequently controls housing and other vital aspects of the workers’ everyday needs. In the vast majority of cases, the crew leader is not only the link between the worker and the grower, but also acts as an intermediary with the non-farming community as well. In the latter role, the crew leader functions as a sort of cultural broker, mediating between the worker and the outside, often alien, community.⁹⁶

When FLCs do not directly perform these functions, they often have sub-contracts or informal relationships with other entities to provide necessary services.

Since the late 1990s, the numbers of agricultural workers employed by growers have increased and those employed by Farm Labor Contractors have fallen. For example, recent data from the NAWS show that from 1998-1999 to 2011-2012, direct-hire workers increased from 73%% to 90% of crop workers while workers employed by contractors fell from 27% to 10%.⁹⁷ (These numbers do not include H2-A “guest workers” who are discussed below.)

Farmers often use FLCs to lower their production costs by outsourcing expenses for labor recruitment and supervision as well as the costs associated with housing and transporting

⁹⁵ NAWS, *supra* note 17.

⁹⁶ S.REP. NO.93-1295 (1974), *reprinted in* U.S.C.C.A.N. 6441, 6442.

⁹⁷ NAWS, *supra* note 17.

workers.⁹⁸ However, FLCs typically face intense competition and narrow profit margins, which can create pressures to cut costs, including by means which are unlawful. Key provisions of the Migrant and Seasonal Agricultural Worker Protection Act (AWPA) were enacted because of recognition of this problem.⁹⁹

NAWS data reflects that FLCs tend to hire the most vulnerable workers. For example, 97% of contract workers vs. 70% of hired workers are foreign born; two-thirds (67%) of contract workers vs. about one-third (34%) of hired workers cannot speak English; 76% of contract workers vs. 46% of hired workers are undocumented; and contract workers are twice as likely as direct-hired workers to be migrants.¹⁰⁰ The great majority of contract employees are crop workers, although some may work in tree planting. Very few livestock workers are contract employees.

H-2A Temporary, Nonimmigrant Agricultural Workers

A significant number of non-immigrant, temporary agricultural workers are brought into the country each year through the H-2A program authorized under the Immigration and Nationalization Act and administered by the ETA Office of Foreign Labor Certification (OFLC).¹⁰¹

OFLC certified 116,689 H-2A positions in FY2014. Those positions were concentrated in relatively few states. One-third (32%) were in three states: North Carolina, Florida, and Georgia.¹⁰² These workers come from many different countries around the world, but over 90% are from Mexico. Virtually all H-2A workers are unaccompanied young men. Most have limited educational attainments levels and limited English proficiency. The great majority of these workers perform crop work.

The ETA minimum requirements regarding H-2A workers' wages, benefits, and working conditions typically are substantially better than the compensation and working and working

⁹⁸ This dynamic is highlighted in California. The state's labor costs are a higher proportion of agricultural production expenses than they are in many other state; likewise, contract workers' percentage of the agricultural labor force in California are higher than they are many other state. U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, *Occupational Employment and Wages, May 2013, Agricultural Workers, All Others*, <http://www.bls.gov/oes/current/oes452099.htm> (last visited Jan. 16, 2015).

⁹⁹ H.R. REP. NO. 97-885 (1982), *reprinted in* U.S.C.C.A.N. 4547 (reporting on the Migrant and Seasonal Agricultural Worker Protection bill H.R. 7102, which later became Pub. L. 97-470 (now codified at 29 U.S.C. §§ 1801-1872)).

¹⁰⁰ NAWS, *supra* note 17.

¹⁰¹ See Section VI.B. above for a description of the law's key provisions.

¹⁰² U.S. DEP'T OF LABOR, EMP'T AND TRAINING ADMIN., OFFICE OF FOREIGN LABOR CERTIFICATION, H-2A TEMPORARY AGRICULTURAL LABOR CERTIFICATION PROGRAM - SELECTED STATISTICS, FY 2014, *available at* http://www.foreignlaborcert.doleta.gov/pdf/H-2A_Selected_Statistics_FY2013_YTD_Q4_final.pdf.

conditions of migrant and crop workers. However, H-2A workers are extremely dependent on their employers and typically isolated from other communities.

C. Characteristics of the Agricultural Worker Population That Increase Their Vulnerability

Certain characteristics of the agricultural worker population and the circumstances in which they work can increase their vulnerability to exploitation. Those factors include (1) their social cultural and geographic isolation; (2) inadequate housing, access to which is often controlled by the employer; and (3) susceptibility to retaliation when they assert their rights.

Agricultural Workers' Social, Cultural, and Geographic Isolation

Geographic isolation. Agricultural workers are often physically isolated by virtue of living and working in remote, rural areas. This isolation reduces their ability to reach out to others, aside from their employers, for assistance with regard to employment, housing, health, family and other issues. The isolation is exacerbated by the fact that many agricultural workers do not own vehicles. Recent NAWS data show that 53% of agricultural workers drive their own car to work, while 26% rely on *raiteros* (private van operators) or labor buses, often owned by or associated with farm labor contractors or employers. Another 17% ride with other workers, 11% walk and 2% use other means, such as public transit.¹⁰³

The reliance on employers and *raiteros* for transportation can significantly limit mobility and autonomy, both in getting to their workplace and attending to basic needs, such as shopping,, accessing needed services, and entertainment. Moreover, employers' and *raiteros'* vehicles are often unsafe and the costs of these services reduce workers' already-limited resources.¹⁰⁴

Ethnicity and National Origin. The ethnicity and national origin of agricultural workers and their families can also increase their vulnerability to discrimination in the job and housing markets.¹⁰⁵

¹⁰³ BON APPETIT MGMT. CO. FOUND., *supra* note 50 at 24, table 19.

¹⁰⁴ See, e.g., NAWS, *supra* note 17; Megan Horn & Nicholas Marritz, *Unfinished Harvest: The Agricultural Worker Protection Act at 30*, (Farmworker Justice, 2013); SOUTHERN POVERTY LAW CENTER, *Who Are Farmworkers?*, <http://www.splcenter.org/sexual-violence-against-farmworkers-a-guidebook-for-criminal-justice-professionals/who-are-farmworke> (last visited Jan. 16, 2015); and Cal. rural Legal Assistance (CRLA) & Cal. Rural Legal Assistance Foun. (CRLAF), Agricultural Worker Health Project, *Farmworker Transportation*, <http://www.agworkerhealth.org/RTF1.cfm?pagename=Transportation> (last visited Jan. 16, 2015).

¹⁰⁵ See, among others, U.S. Comm'n on Agric. Workers, *Report of the Commission on Agricultural Workers*, 50 and 105-106 (1992); Hous. Assistance Council, *No Refuge from the Fields: Findings from a Survey of Farmworker Housing Conditions in the United States* (Sept. 2001); Don Villarejo, Marc Schenker, Ann Moss Joyner, & Allan Parnell, *(Un)Safe At Home: The Health Consequences of Sub-standard Farm Labor Housing* (Cal. Rural Legal Assistance, June 2012); Southern Poverty Law Center, *Under Siege. Life for Low-Income Latinos in the South* (Southern Poverty Law Center Report, Apr. 2009); Susan Reed & Ilene Jacobs, *Serving Farmworkers* 38:5-6 (Clearinghouse Review, Sept.-Oct.

Seventy-one percent (71%) of agricultural workers are foreign born, in contrast to 16% of all U.S. residents over 18 who are foreign born.¹⁰⁶ Seventy-six percent (76%) of agricultural workers, compared to 17% of the total U.S. population, are Latino / Hispanic.¹⁰⁷ Nearly all (96%) of the foreign born workers are from Mexico. An increasing number of Mexican-born workers are from states in southern Mexico, such as Guerrero, Oaxaca and Chiapas, where the native language is not Spanish.

Immigration Status. The immigration status of agricultural workers also contributes to their relative vulnerability to exploitation. NAWS data indicate that 52% of crop workers are authorized to work in the United States.¹⁰⁸ The picture is complex, however, since 78% of agricultural worker children are citizens and 65% of agricultural worker spouses are authorized. Nearly one-fourth (24%) of agricultural worker families are “mixed status” families, with members who are authorized as well as members who are unauthorized.¹⁰⁹

Literacy and Education. Agricultural workers are also often handicapped by lack of literacy and education as well as limited proficiency in English. Only 39% have schooling beyond the nine grade. In contrast, 96.5% of all US adults 24 years or older, have completed the eighth grade.¹¹⁰ Only 33% of agricultural workers report they can speak English “well,” nearly as many (27%) reporting they cannot speak English at all. Of those workers not born in the U.S., only 3% speak English “well.”¹¹¹ In contrast, only 4.5% of all U.S. households have no one age 14 and over who speaks English “very well.”¹¹²

2004); and “Effective Delivery of Legal Services to Agricultural Workers,” memorandum from NLADA Agric. Worker Project Grp. to Ronald S. Flagg, Gen. Counsel, and Bristow Hardin, Program Analyst (Dec. 8, 2014).

¹⁰⁶ NAWS, *supra* note 17 and U.S. CENSUS BUREAU, 2012 AMERICAN COMMUNITY SURVEY 1-YEAR ESTIMATES, Table B05003: *Sex By Age By Nativity And Citizenship Status*, <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk> (last visited Jan. 16, 2015).

¹⁰⁷ NAWS, *supra* note 17 and U.S. CENSUS BUREAU, 2012 AMERICAN COMMUNITY SURVEY 1-YEAR ESTIMATES, Table B03002: *Hispanic Or Latino Origin By Race*, <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk> (last visited Jan. 16, 2015).

¹⁰⁸ NAWS, *supra* note 17.

¹⁰⁹ NAWS, *supra* note 17.

¹¹⁰ NAWS, *supra* note 17 and U.S. CENSUS BUREAU, 2012 AMERICAN COMMUNITY SURVEY 1-YEAR ESTIMATES, Table DP02: *Selected Social Characteristics In The United States*, <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk> (last visited Jan. 16, 2015).

¹¹¹ NAWS, *supra* note 17.

¹¹² U.S. CENSUS BUREAU, 2012 AMERICAN COMMUNITY SURVEY 1-YEAR ESTIMATES, Table S1602: *No One Age 14 And Over Speaks English Only Or Speaks English ‘Very Well,’*

Agricultural Workers' Inadequate and Insecure Housing

Lack of adequate housing and in some cases reliance on the employer for housing exacerbate agricultural workers' vulnerability to exploitation. It is widely recognized that much of agricultural workers' housing remains substandard and fails to comply with local, state and federal requirements.¹¹³ The critical importance of housing in the agricultural economy was highlighted by the Commission on Agricultural Workers (CAW), jointly appointed by the Office of the President and the U.S. Congress, in 1993: "From an economic perspective, the *linchpin* of farmworkers' economic strategies is access to affordable housing." Without it, it is more difficult for workers "to cope with the uncertainty and intermittent employment of farm work." However, the Commission found that "the number of farmworkers in need of housing exceeds the available housing stock. The result is overcrowding, the occupation of substandard units and homelessness. . . . [T]he vast majority of hired farmworkers are housed in seriously inadequate conditions. Most quarters are overcrowded . . . Other problems include use of dilapidated structures and of buildings not intended for residential use, such as garages and storage sheds."¹¹⁴

A recent analysis of farmworker housing research concluded that: "[t]here is no evidence in the [most recent] government report or in the peer-reviewed literature to indicate that the housing

<http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk> (last visited Jan. 16, 2015).

¹¹³ The research on farmworker housing is considerable. See Thomas A. Arcury, Chensheng Lu, Haiying Chen, & Sara A. Quandt, *Pesticides present in migrant farmworker housing in North Carolina*, (Am. J. of Indus. Med., 51:312–22, March 2014); Werner E. Bischoff, Maria Weir, Phillip Summers, Haiying Chen, Sara A. Quandt, Amy K. Liebman, & Thomas A. Arcury, *The Quality of Drinking Water in North Carolina Farmworker Camps*, (Am. J. Pub. Health 102(10):49–54, 2012); Am. Pub. Health Ass'n, *Policy #20118, Improving Housing for Farmworkers in the United States Is a Public Health Imperative* (Nov. 2011); U.S. Gov't Accountability Office GAO/RCED-00-40, *Pesticides: Improvements Needed to Ensure the Safety of Farmworkers and Their Children* (2000); Hous. Assistance Council, *Housing Conditions for Farmworkers* (Rural Research Rep., Sept. 2013); Mich. Civil Rights Comm'n, *A Report on the Conditions of Migrant and Seasonal Farmworkers in Michigan* (March 2010); Quirina M. Vallejos, Quirina M., Sara A. Quandt, Joseph G. Grzywacz, Scott Isom, Haiying Chen, Leonardo Galván, Lara Whalley, Arjun B. Chatterjee, & Thomas A. Arcury, *Migrant farmworkers' housing conditions across an agricultural season in North Carolina* (Am. J. Indus. Med., 54: 533–44, July 2011); Don Villarejo, Marc Schenker, Ann Moss Joyner, & Allan Parnell, *(Un)Safe At Home: The Health Consequences of Substandard Farm Labor Housing* (Cal. Rural Legal Assistance, June 2012); Don Villarejo, *Health-Related Inequities Among Hired Farm Workers and the Resurgence of Labor-intensive Agriculture* (Health Program, The Kresge Foundation, Troy, Michigan, 2012); Don Villarejo, *California's Hired Farmworkers Move to the Cities: The Outsourcing of Responsibility for Farm Labor Housing* (Cal. Rural Legal Assistance Priorities Conference, Asilomar, Cal., 2014); and the papers prepared for the Transdisciplinary Conference on Farmworker Housing Quality and Health.

¹¹⁴ COMM'N ON AGRIC. WORKERS, REPORT OF THE COMMISSION ON AGRICULTURAL WORKERS, 50 and 105-106 (1993).

situation for hired farm workers on a national basis has changed appreciably in the past 20 years.”¹¹⁵ A 2008 USDA report noted that “farmworkers often confront substandard quality, crowding, deficient sanitation, proximity to pesticides (which is especially harmful for children), and lack of inspection and enforcement.”¹¹⁶ Based on a review of the occupational safety and health research programs addressing agricultural workers, the National Research Council reported that “virtually all recent health survey research have [sic] demonstrated that a large share of this workforce is still experiencing unwarranted risks to health that are associated with their housing conditions.”¹¹⁷

This is reflected as well in Housing Assistance Council reports that 31% of agricultural workers live in crowded housing, over six times higher than the national average, and that “substandard and structurally deficient conditions are endemic to farmworker housing.” They estimate that one-third of farmworker housing, and 44% of manufactured housing (mobile homes) are moderately or severely substandard, and about one in five units are both crowded and substandard.¹¹⁸ Moreover, farmworker housing quality is frequently impaired by agricultural chemicals, as studies “find evidence of pesticides in and about the home, often in rugs, furnishings, and often attributable to contaminated work clothing being brought home.”¹¹⁹

The Agricultural Worker Population’s Vulnerability to Employer Retaliation

The substantial control that employers’ wield over agricultural workers and their families can limit workers’ willingness to complain about or seek redress for violations of their rights. In the context of a farm labor surplus – with an estimated 2 to 2.5 workers for each year-round full-time equivalent job – the loss of current future employment can have major negative consequences.

As noted above GAO reports that “disincentives” such as job loss and other retaliatory practices result in the underreporting of occupational injuries and hazards in agriculture. A wide range of cases litigated since the late 1990s by the U.S. Equal Employment Opportunity Commission documented the nature and pervasiveness of retaliatory practices. Interviews with former officials of government enforcement agencies highlight similar patterns. Based on her

¹¹⁵ DON VILLAREJO, MARC SCHENKER, ANN MOSS JOYNER, & ALLAN PARNELL, (UN)SAFE AT HOME: THE HEALTH CONSEQUENCES OF SUB-STANDARD FARM LABOR HOUSING (Cal. Rural Legal Assistance).

¹¹⁶ KANDEL, *supra* note 52, at 28.

¹¹⁷ VILLAREJO ET AL., *supra* note 115, at 6.

¹¹⁸ HOUS. ASSISTANCE COUNCIL, HOUSING CONDITIONS FOR FARMWORKERS 6-7 (Rural Research Rep.) The 31% crowded measures exclude barracks and dormitories that are designed for high occupancy.

¹¹⁹ Sara A. Quandt, Carol Brooke, Kathleen Fagan, Allyson Howe, Stephen A. McCurdy, Lisel Holdenried, Thomas K. Thornburg, and Don Villarejo, FARMWORKER HOUSING AND ITS IMPACT ON HEALTH and the papers from the Transdisciplinary Conference on Farmworker Housing Quality and Health (Nov. 11, 2014) at 11.

experience at WHD and the Minnesota Department of Commerce, Nancy Lippenk stated that retaliatory practices make farmworkers “afraid to come forward; they are afraid to complain.” And Ron Javor reported that his three decades with the California Department of Housing and Community Development demonstrated that agricultural workers are “afraid to speak up.”

SECTION VII

SPECIALIZED EXPERTISE AND SERVICES PROVIDED BY MIGRANT GRANTEES

LSC's Migrant Grantees employ delivery techniques that have been developed over decades to respond to the special characteristics of agricultural workers and the legal needs that result from those characteristics. The evolution of the system reflects the Legal Services Corporation Performance Criteria that were promulgated "to guide LSC's assessments of program performance generally and in the competitive grants process" and to enable the Corporation to best fulfill its "statutory responsibility to ensure the provision of economical and effective delivery of legal assistance by Legal Services programs to eligible persons in all parts of the country, including U.S. territories."¹²⁰ The Performance Criteria frame the following discussion of the ways that grants for specialized delivery approaches and legal expertise ensure that the unique access barriers and legal needs of the LSC-eligible agricultural worker population are addressed most effectively and efficiently.

The Performance Criteria are:

- 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.
- Performance Area Two. Effectiveness in engaging and serving the low-income population throughout the service area.
- Performance Area Three. Effectiveness of legal representation and other program activities intended to benefit the low-income population in the service area.
- Performance Area Four. Effectiveness of governance, leadership and administration.

A. 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.

Performance Area Two. Effectiveness in engaging and serving the low-income population throughout the service area.

Because core elements of Performance Areas One and Two are significantly entwined, farmworkers programs' activities in these areas are discussed in tandem. The most important elements of these Performance Areas concern farmworker programs' specialized expertise and delivery related to linguistic and cultural competence; engagement to foster clients' trust and confidence and to inform them of their legal rights; the identification of clients' most pressing

¹²⁰ LEGAL SERVICES CORPORATION, LEGAL SERVICES CORPORATION PERFORMANCE CRITERIA, REFERENCED TO THE ABA STANDARDS FOR THE PROVISION OF CIVIL LEGAL AID 1 (ed. 2007), *available at* <http://www.lsc.gov/sites/default/files/LRI/LSCPerformanceCriteriaReferencingABASTandards.pdf>.

legal needs and development and implementation of strategies to address those needs most effectively and economically; and facilitating clients' access to program services.

Pertinent information about farmworker program's work in these areas was derived from responses to the LSC Migrant Grantee Survey about legal needs of the agricultural worker population,¹²¹ interviews with officials of state and federal agencies responsible for the enforcement of laws affecting the rights of the agricultural worker population and from LSC grantees' annual Case Services Reports (CSR).

LSC Migrant Grantees Survey Results. In their responses to the LSC survey, Migrant Grantees identified the capacities and strategies that they considered necessary and that they employed to serve the agricultural worker population "most effectively and efficiently."¹²² For example, all (100%) of the Migrant Grantees considered the following techniques necessary and likewise incorporated them into their delivery approaches:

- Flexible staff work hours (for outreach in non-work hours and travel to remote areas);
- Outreach at labor camps and other places workers live;
- Outreach at locations other than where workers work or live;¹²³
- Partnerships with community organizations and agencies that served the agricultural worker population;
- Bilingual and multilingual staff;¹²⁴
- Staff with cultural competence with the agricultural worker population;¹²⁵ and
- Community legal education.

Nearly all the Migrant Grantees considered it necessary provide special intake procedures (97%) and to make extensive use of technology (87%), such as special toll-free lines, cell/text phones, and laptops, to serve clients in remote areas (87%). Nearly all Migrant Grantees, in fact, use these approaches (97% use special intake procedures, 96% make extensive use of

¹²¹ As noted in Section II, all of the LSC Migrant Grantees responded to the survey.

¹²² The following information is based on the responses to question 1. The percentages do not include the small number of "don't know" responses.

¹²³ Because of the risk of employer retaliation, farmworker programs very seldom conduct outreach at farmworkers' work sites.

¹²⁴ LSC 2012 Grant Activity Reports (GAR) data indicate that of the total FTE staff of migrant programs, 82% are bilingual or multilingual. In contrast, 25% of the total basic field program FTE advocate staff are multilingual / bilingual.

¹²⁵ To foster cultural competence programs conduct on-going training and also have staffing diversity that reflects the diversity of the farmworker population. GAR data from 2012 indicate that 53% the total FTE advocate staff of migrant programs, vs. 17% of basic field advocate staff, are Latino / Hispanic.

technology). Finally, nearly all considered work with enforcement agencies necessary and incorporated that work in their delivery model (90% and 89%, respectively).

LSC Basic Field Grantees Survey Results. In their responses to the LSC Basic Field Survey, basic field grantees also indicated that special delivery approaches were needed to serve the agricultural worker population effectively and efficiently.¹²⁶ Nearly all indicated the need to have bilingual and multilingual staff (97%) and staff with cultural competence with the agricultural worker population (93%) were required. Nine-in-ten also indicated that work with community partners and agencies (91%) and community education (90%) were needed.

Interview Results. Interviews with four top officials of state and federal agencies responsible for enforcing the rights of the agricultural worker population provide insights into the effectiveness of farmworker programs' engagement with the agricultural worker population and their knowledge of that population's legal needs. All of these interviewees were officials with federal agencies (one continues in that capacity); two were also officials with state agencies.¹²⁷

All of these officials indicated that enforcement agencies lack the staffing to effectively enforce the relevant laws and fulfill their missions. They emphasized that enforcement agencies' staffing constraints are compounded by their insufficient connections with and trust within the communities they are expected to serve. These limitations restrict enforcement agencies' ability to identify violations of the legal rights of the agricultural worker community and to develop strategies to most effectively prevent those violations. The officials concurred with one interviewee's assessment that without the assistance of legal services programs and other stakeholders "it is impossible to ensure the law is enforced."¹²⁸

These officials stressed the importance of farmworker programs' assistance in two major areas. First, farmworker programs enhance agencies' abilities to develop necessary connections with

¹²⁶ The following is based on responses to question 10. The percentages do not include "don't know" responses.

¹²⁷ Interviewees included Nancy Lippenk, former Assistant Commissioner of Enforcement, Minnesota Commerce Department, and former Acting Administrator of the United States Department of Labor, Wage and Hour Division; William Tamayo, Regional Attorney, U.S. Equal Employment Opportunity Commission, San Francisco Office; John Trasviña, Dean of University of San Francisco School of Law, former U.S. Department of Justice Special Counsel for Immigration Related Unfair Employment Practices and former Assistant Secretary, U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity; and, Ellen Widess, former Chief, California Occupational Safety and Health Administration, and former Director, Texas Department of Agriculture, Pesticide Program.

¹²⁸ Interview with John Trasviña. William Tamayo observed that legal services programs are "indispensable" to the EEOC's success in prosecuting cases on behalf of farmworker women victimized by sexual violence and sexual assault.

agricultural worker communities. The knowledge of where agricultural workers work and live is only one aspect of that. They considered no less important farmworker programs' linguistic and cultural competence and the trust they have within agricultural worker communities. Second, farmworker programs identify the legal needs of the agricultural worker population and help identify employers with patterns of illegal practices. They were referred to as agencies' "eyes and ears on the ground." Farmworker programs train agency staff on the major laws and regulations affecting agricultural workers and have partnered with agencies in training the community and employers about the laws.

B. Performance Area Three. Effectiveness of legal representation and other program activities intended to benefit the low-income population in the service area.

Performance Area Four. Effectiveness of governance, leadership and administration

Performance Area Three and Performance Area Four are discussed together because they both have particular relevance for assessing the need for specialized legal expertise and delivery approaches. Those criteria relate to the coherence and comprehensiveness of the delivery system and programs' participation in an integrated delivery system.

The most pertinent elements from the Performance Criteria Area Three relate to programs' capacities and activities with respect to the linguistic and cultural competence of staff; outreach and community education; intake; and substantive expertise. The first three of these were discussed in the previous section so the following focuses on issues related to specialized expertise.

LSC does not collect systematic data regarding the expertise of grantees' staff in specific substantive legal areas. However, in their responses to the Migrant Grantee Survey agricultural worker programs identified the substantive areas in which expertise was needed to "effectively and efficiently" meet the legal needs of the agricultural worker population.

Table VII.a shows the percent of respondents who indicated that specialized expertise was needed in the identified areas. As those data show, virtually all – between 97% and 100% –of the respondents indicated that specialized expertise was required regarding laws pertaining to agricultural workers' pay and working conditions: Migrant and Seasonal Agricultural Workers Protection Act (AWPA)-related issues; wage claims and other Fair Labor Standards Act (FLSA)-related issues; Occupational Safety and Health Act (OSHA)-related issues; and Environmental Protection Agency enforcement-related issues (*e.g.*, Worker Protection Standard, pesticides). (As noted in Section V, expertise in AWPA is of singular importance given that the employment contract provisions may cover issues related to wages, employment conditions, and housing and transportation standards.)

Table VII.a
Legal Problem Areas Affecting Farmworkers that Require Specialized Expertise
Percent (%) of Migrant Grantee Survey Respondents Indicating that Specialized Expertise
Is Needed to Address the Needs of the Farmworker Population Effectively

| Legal Problem Type | Specialized Expertise Needed |
|------------------------------------------------------------------------------------------------------|------------------------------|
| Migrant and Seasonal Agricultural Workers Protection Act (AWPA)-related issues | 100% |
| Immigration/naturalization | 100% |
| Wage claims and other Fair Labor Standards Act (FLSA)-related issues | 97% |
| Occupational Safety and Health Act (OSHA)-related issues | 97% |
| Environmental Protection Agency enforcement-related issues (Worker Protection Standard / pesticides) | 97% |
| Other employment related (e.g., worker's compensation) | 96% |
| Human Trafficking | 93% |
| Taxes | 93% |
| Child labor | 89% |
| Health (not OSHA-related or EPA-related) | 88% |
| Civil rights (e.g., sexual harassment, employment discrimination) | 87% |
| Education | 81% |
| Housing (not covered by AWPA) | 81% |
| Public benefits (other than UI) | 79% |
| Youth (other than child labor) | 79% |
| Unemployment Insurance (UI) | 75% |
| Domestic violence | 75% |
| Consumer | 74% |
| Family (other than domestic violence) | 67% |

All (100%) of respondents deemed specialized expertise necessary to protect the rights of eligible agricultural workers and their families on issues related to immigration and naturalization, and high percentages identified the need for this expertise with respect to human trafficking (93%), child labor (89%) and civil rights-related crimes such as job discrimination and sexual harassment (87%). A similar number consider this expertise necessary for health-related issues that did not arise from violations of OSHA or EPA worker protection standards.

All (100%) of the respondents noted that training in agricultural workers' legal needs, laws and delivery approaches are necessary to that ensure programs maintain the requisite skills and knowledge. All also indicated that the mobility of the agricultural worker population and the impact of judicial rulings and enforcement activities around the country required farmworker advocates to maintain on-going coordination and communication with the advocates serving agricultural workers in other states.

In their responses to the Basic Field Grantee Survey, basic field grantees likewise indicated that specialized legal expertise was necessary to serve the agricultural worker population “effectively and efficiently.”¹²⁹ For example, about nine in ten indicated the following types of expertise were needed: access to specialized training regarding agricultural worker issues / delivery (90%); coordination and communication with advocates providing services to agricultural workers in other states (88%); and expertise regarding federal laws and state laws with special provisions affecting agricultural workers (87%). Large majorities likewise indicated that Work with enforcement agencies (84%) and federal litigation experience (78%) were needed.

The distribution of cases closed by Migrant Grantees provides indicators of the extent to which these grantees’ advocacy (1) focuses on the particular legal needs of the agricultural worker population and (2) is concentrated in the substantive areas that require special expertise.

Tables VII.b and VII.c provide these data for 2013. Table VII.b shows that over 89% of the cases handled by Migrant Grantees focused on issues unique to agricultural workers that require specialized expertise. Those include in particular representation associated with employment, civil and individual rights, and health and safety. Table VII.c second table shows that only about 11% of the cases handled by Migrant Grantees focused on more general issues.

¹²⁹ Basic Field Grantee Survey, question 10, attached as Appendix F (“don’t know” responses are excluded).

Table VII.b
Distribution of Migrant Programs' Cases among Legal Problem Areas
Special Farmworker Focus

| Legal Problem Type | Percent of Cases |
|---------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Farmworker-Focused | |
| Wage Claims / Other FLSA | 21.8% |
| Agricultural Worker (not FLSA), Employee Rights, Other: Includes cases related to AWPA, OSHA, EPA (e.g., Worker Protection Standard), Child labor | 25.1% |
| Civil Rights (e.g., sexual harassment, employment discrimination) | 6.0% |
| Taxes (Not EITC) | 1.5% |
| Individual Rights (Immigration / Naturalization, Human Trafficking) | 12.7% |
| Health (not OSHA-related or EPA-related) | 5.6% |
| Education | 1.8% |
| Farmworker Public Benefits: Workers compensation, Unemployment insurance, Food Stamps | 14.8% |
| Farmworker-focused as percent of total case | 89.3% |

Table VII.c
Distribution of Migrant Programs' Cases among Legal Problem Areas
General Focus

| Legal Problem Type | Percent of Cases |
|------------------------------------------------------------------------------------------------------------------------------------|------------------|
| General Issues | |
| Consumer | 1.2% |
| Family | 2.0% |
| Non-Farmworker Public Benefits: Social Security (Not SSDI), SSDI, SSI, State and Local Income Maintenance, TANF, Veterans Benefits | 2.2% |
| Housing | 3.1% |
| Youth | 0.2% |
| Other Individual rights | 0.8% |
| Miscellaneous | 1.2% |
| General focus as percent of total cases | 10.7% |

SECTION VIII

THE FARMWORKER POPULATION ON WHICH TO BASE THE ALLOCATION OF LSC FUNDING FOR FARMWORKER LEGAL SERVICES

The data and analyses set forth in the preceding sections support the conclusion that migrant and seasonal crop workers, livestock workers and certain forestry workers¹³⁰ and the dependents of each of these groups share legal needs that can be most effectively and efficiently addressed with specialized expertise and delivery approaches. Therefore, LSC management recommends that these workers and their dependents should comprise the population that provides the basis for allocating farmworker legal services funding. The June 19, 2000, letter of John McKay, LSC President, stated that farmworker programs should serve this farmworker population as well as workers employed in meat and poultry slaughtering plants. Although meat and poultry workers share some of the same legal needs as farmworkers, LSC management believes that the foregoing data and analyses support the conclusion that they should not be included in the population on which to base farmworker legal services funding allocations. The reasoning for these recommendations follows.

The Farmworker Population: Crop Workers, Livestock Workers and Forestry Workers and Their Dependents

Although the agricultural workforce is not monolithic, crop workers, livestock workers and forestry workers, and their dependents share multiple, common characteristics that create access barriers and legal needs that can be addressed most effectively and efficiently with specialized legal expertise and delivery approaches. First, the agricultural workforce shares the distinctive characteristics of agricultural work and the agricultural labor market described in Section V. Agriculture is the most dangerous industrial sector in the U.S. Agricultural work is insecure, temporary and low-paid. A labor surplus – there are 2 to 2.5 farm workers for each year-round equivalent job – contributes to high unemployment; the seasonality of work means that very few workers have year-round work; and the industry median wage is only 55% that of all full-time wage and salary workers.

Second, as Section V also discussed, the agricultural labor market is governed by a unique body of laws and regulations. Some that apply solely to agricultural workers and others that exclude agricultural workers from legal protections generally afforded to other workers and thereby directly affect the legal advice and strategies applicable to such workers. In the latter category, for example, the Fair Labor Standards Act (FLSA) requires employers to pay workers for all hours they work and to pay workers at least the Federal minimum wage. However, farms with fewer than 11 employees – which employ nearly half (46%) of all hired workers – are exempt from the federal minimum wage requirement. FLSA also exempts agricultural employers from paying overtime and from child labor requirements that apply to other employers. Provisions

¹³⁰ Logging workers are generally not included with other forestry workers.

of the Occupational Health and Safety Act (OSHA) require employers to meet field sanitation standards (e.g., drinking water, toilets) and temporary labor camp housing standards and provide safety equipment. However, appropriation riders prohibit Federal health and safety inspections at small farms without temporary labor camps and also exempt those establishments from OSHA's worker protection provisions. Agricultural employers are also exempt from the National Labor Relations Act (NLRA), which protects workers' rights associated with collective bargaining to improve the terms and conditions of employment. At the same time, other laws create a legal framework unique to agriculture. One federal law, the Migrant and Seasonal Agricultural Worker Protection Act (AWPPA), is designed specifically to protect the rights of agricultural workers. Section H-2A of the Immigration and Nationality Act authorizes growers to hire "temporary, nonimmigrant" guest workers (H-2A workers) when they demonstrate there are not sufficient U.S. workers qualified and available to perform the needed work.

Third, the farmworker population is geographically, socially and culturally isolated. (See Section VI.) Job sites and employer-provided housing are often in remote locations. Off-farm housing accessed through the private market is often located in enclaves isolated from non-farmworker communities. And many farmworkers lack their own vehicles. Social and cultural isolation compounds this geographic isolation. A large majority of farmworkers have very low educational attainment levels and low English language proficiency. A large majority are Latino / Hispanic and foreign-born. About half of farmworkers are authorized to work in the U.S., although most children of unauthorized parents are citizens.

The combination of these factors creates access barriers and legal needs that are unique to the agricultural worker population. Tailored special delivery approaches and specialized legal expertise are necessary to meet this population's legal needs most effectively and economically. Accordingly, it is appropriate that crop workers, livestock workers and forestry workers and their dependents should be included in the "farmworker population" used for the allocation of LSC funding for farmworker legal services.

Meat and Poultry Processing Plant Workers

Workers employed in meat and poultry slaughtering plants have similar characteristics to the farmworker population and can be vulnerable and subjected to the same type of illegal and exploitive practices that farmworkers experience.¹³¹ They share many of the same demographics with regard to race and ethnicity, educational levels and rural isolation. Meat and poultry plant workers may also have claims such as wage theft, violations of worker safety and health protections, discrimination based race and national origin, sexual violence and

¹³¹ For an informative analysis of the meat and poultry processing workforce and the challenges they face, see HUMAN RIGHTS WATCH, *BLOOD, SWEAT, AND FEAR: WORKERS' RIGHTS IN U.S. MEAT AND POULTRY PLANTS* (2004), available at <http://www.hrw.org/sites/default/files/reports/usa0105.pdf>.

violence, trafficking and other illegal practices similar to claims which farmworkers frequently advance.

For several reasons, however, LSC management recommends that meat and poultry processing plant workers do not have the type of access challenges and legal needs that warrant their inclusion in the population count used to allocate funding for farmworker legal services. Most significantly, workers in this industry have the rights and protections from laws such as FLSA, the OSH Act, and the NRLA that are denied to agricultural workers. Employment of meat and poultry workers is far less seasonal and sporadic, unemployment is much lower, and wages are higher in the meat and poultry processing industry than in agriculture.¹³² Finally, the tasks performed by meat and poultry processing plant workers differ significantly from those performed by agricultural workers. For these reasons, the meat and poultry industry is defined by the Census Bureau's North American Industry Classification System as manufacturing, not agriculture.

¹³² For example, in 2012 the median hourly wages and median annual earnings of meat and poultry processing workers were 33% higher than both the median hourly wages and median annual earnings of crop workers and laborers. See data at: U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, *Occupational Employment and Wages, May 2013, 45-2092 Farmworkers and Laborers, Crop, Nursery, and Greenhouse*, <http://www.bls.gov/oes/current/oes452092.htm> (last visited Jan. 20, 2015) and U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, *Occupational Employment and Wages, May 2013, 51-3023 Slaughterers and Meat Packers*, <http://www.bls.gov/oes/current/oes513023.htm> (last visited Jan. 20, 2015).

SECTION IX

UPDATED COUNT OF THE AGRICULTURAL WORKER POPULATION

The national and state-by-state estimates of the LSC-eligible agricultural worker population provided to LSC by the Department of Labor Employment and Training Administration (ETA) are summarized below. More details about the estimates and the methodology used to develop them are provided in Appendix A.

Table IX.a and Table IX.b show the ETA estimates as well as the estimates currently used for allocating Migrant Grants (“Current Estimate”). Both tables provide the following information:

- The estimated population of the LSC-eligible agricultural worker population nationally and in each state.
- Each state’s percentage share of the national LSC-eligible agricultural worker population.
- The differences between the ETA estimate and the Current Estimate.

Table IX.a provides these data in alphabetical order by state name, Table IX.b. provides these data in the order of the change in size (in percentage terms) of states’ respective shares of the total national population.

As these data show, the ETA estimate of the total LSC-eligible agricultural worker population national population is 1,553,003, 4.13% less than the estimate currently used of 1,619,982. The magnitude of the changes at the state level varies, in many cases significantly.

Table IX.a
LSC-Eligible Agricultural Worker Population by State
Current Population Estimates and Department of Labor /
Employment and Training Administration (ETA) Estimates
In Alphabetical Order by State

| State | Current Population Estimate | | ETA Population Estimate | | Change: ETA Estimate +/- Current | |
|---------------|-----------------------------|----------------------|-------------------------|----------------------|----------------------------------|--------------------|
| | Persons | Percent (%) of Total | Persons | Percent (%) of Total | Persons | Percent (%) Change |
| Alabama | 4,712 | 0.291% | 13,120 | 0.845% | 8,408 | 178.4% |
| Alaska | 0 | 0.000% | 1,485 | 0.096% | 1,485 | n/a |
| Arizona | 21,265 | 1.313% | 40,135 | 2.584% | 18,870 | 88.7% |
| Arkansas | 11,321 | 0.699% | 13,245 | 0.853% | 1,924 | 17.0% |
| California | 378,096 | 23.340% | 323,521 | 20.832% | (54,575) | -14.4% |
| Colorado | 21,272 | 1.313% | 27,458 | 1.768% | 6,186 | 29.1% |
| Connecticut | 2,386 | 0.147% | 8,889 | 0.572% | 6,503 | 272.5% |
| Delaware | 3,556 | 0.220% | 1,472 | 0.095% | (2,084) | -58.6% |
| Florida | 128,633 | 7.940% | 91,727 | 5.906% | (36,906) | -28.7% |
| Georgia | 56,155 | 3.466% | 28,820 | 1.856% | (27,335) | -48.7% |
| Hawaii | 0 | 0.000% | 12,701 | 0.818% | 12,701 | n/a |
| Idaho | 26,771 | 1.653% | 32,852 | 2.115% | 6,081 | 22.7% |
| Illinois | 35,754 | 2.207% | 35,394 | 2.279% | (360) | -1.0% |
| Indiana | 16,285 | 1.005% | 26,006 | 1.675% | 9,721 | 59.7% |
| Iowa | 5,404 | 0.334% | 45,938 | 2.958% | 40,534 | 750.1% |
| Kansas | 0 | 0.000% | 29,978 | 1.930% | 29,978 | n/a |
| Kentucky | 6,096 | 0.376% | 25,017 | 1.611% | 18,921 | 310.4% |
| Louisiana | 3,945 | 0.244% | 16,849 | 1.085% | 12,904 | 327.1% |
| Maine | 10,281 | 0.635% | 12,264 | 0.790% | 1,983 | 19.3% |
| Maryland | 13,022 | 0.804% | 5,729 | 0.369% | (7,293) | -56.0% |
| Massachusetts | 2,384 | 0.147% | 9,004 | 0.580% | 6,620 | 277.7% |
| Michigan | 86,214 | 5.322% | 43,522 | 2.802% | (42,692) | -49.5% |
| Minnesota | 28,656 | 1.769% | 38,462 | 2.477% | 9,806 | 34.2% |
| Mississippi | 8,174 | 0.505% | 13,991 | 0.901% | 5,817 | 71.2% |
| Missouri | 11,668 | 0.720% | 27,461 | 1.768% | 15,793 | 135.4% |

Table IX.a (Continued)
LSC-Eligible Agricultural Worker Population by State
Current Population Estimates and Department of Labor /
Employment and Training Administration (ETA) Estimates
In Alphabetical Order by State

| State | Current Population Estimate | | ETA Population Estimate | | Change: ETA Estimate +/- Current | |
|-------------------|-----------------------------|----------------------|-------------------------|----------------------|----------------------------------|--------------------|
| | Persons | Percent (%) of Total | Persons | Percent (%) of Total | Persons | Percent (%) Change |
| Montana | 7,818 | 0.483% | 13,854 | 0.892% | 6,036 | 77.2% |
| Nebraska | 6,056 | 0.374% | 31,440 | 2.024% | 25,384 | 419.2% |
| Nevada | 0 | 0.000% | 5,740 | 0.370% | 5,740 | n/a |
| New Hampshire | 1,424 | 0.088% | 3,845 | 0.248% | 2,421 | 170.0% |
| New Jersey | 17,281 | 1.067% | 8,008 | 0.516% | (9,273) | -53.7% |
| New Mexico | 12,509 | 0.772% | 19,564 | 1.260% | 7,055 | 56.4% |
| New York | 39,645 | 2.447% | 38,244 | 2.463% | (1,401) | -3.5% |
| North Carolina | 76,764 | 4.739% | 51,741 | 3.332% | (25,023) | -32.6% |
| North Dakota | 16,602 | 1.025% | 16,851 | 1.085% | 249 | 1.5% |
| Ohio | 18,042 | 1.114% | 31,834 | 2.050% | 13,792 | 76.4% |
| Oklahoma | 8,963 | 0.553% | 15,574 | 1.003% | 6,611 | 73.8% |
| Oregon | 79,782 | 4.925% | 60,176 | 3.875% | (19,606) | -24.6% |
| Pennsylvania | 23,739 | 1.465% | 20,234 | 1.303% | (3,505) | -14.8% |
| Puerto Rico | 41,642 | 2.571% | 7,098 | 0.457% | (34,544) | -83.0% |
| Rhode Island | 253 | 0.016% | 988 | 0.064% | 735 | 290.5% |
| South Carolina | 28,330 | 1.749% | 13,547 | 0.872% | (14,783) | -52.2% |
| South Dakota | 0 | 0.000% | 15,572 | 1.003% | 15,572 | n/a |
| Tennessee | 9,084 | 0.561% | 17,928 | 1.154% | 8,844 | 97.4% |
| Texas | 198,948 | 12.281% | 83,809 | 5.397% | (115,139) | -57.9% |
| Utah | 9,715 | 0.600% | 10,247 | 0.660% | 532 | 5.5% |
| Vermont | 1,161 | 0.072% | 4,880 | 0.314% | 3,719 | 320.3% |
| Virginia | 22,589 | 1.394% | 21,058 | 1.356% | (1,531) | -6.8% |
| Washington | 104,545 | 6.453% | 79,936 | 5.147% | (24,609) | -23.5% |
| West Virginia | 0 | 0.000% | 3,792 | 0.244% | 3,792 | n/a |
| Wisconsin | 13,040 | 0.805% | 45,482 | 2.929% | 32,442 | 248.8% |
| Wyoming | 0 | 0.000% | 6,521 | 0.420% | 6,521 | n/a |
| Total U.S. | 1,619,982 | 100.000% | 1,553,003 | 100.000% | (66,979) | -4.13% |

Table IX.b
LSC-Eligible Agricultural Worker Population by State
Current Population Estimates and DOL /
Employment and Training Administration (ETA) Estimates
In Order of Change in Size of Percentage (%) Change by State

| STATE | Current Estimate | | ETA Estimate | | Change: ETA Estimate +/- Current | |
|---------------|------------------|-------------------------|--------------|-------------------------|-------------------------------------|-----------------------|
| | Persons | Percent (%) of Total | Persons | Percent (%) of Total | Persons | Percent (%) Change |
| Alaska | 0 | 0.000% | 1,485 | 0.096% | 1,485 | n/a |
| Hawaii | 0 | 0.000% | 12,701 | 0.818% | 12,701 | n/a |
| Kansas | 0 | 0.000% | 29,978 | 1.930% | 29,978 | n/a |
| Nevada | 0 | 0.000% | 5,740 | 0.370% | 5,740 | n/a |
| South Dakota | 0 | 0.000% | 15,572 | 1.003% | 15,572 | n/a |
| West Virginia | 0 | 0.000% | 3,792 | 0.244% | 3,792 | n/a |
| Wyoming | 0 | 0.000% | 6,521 | 0.420% | 6,521 | n/a |
| Iowa | 5,404 | 0.330% | 45,938 | 2.958% | 40,534 | 750.1% |
| Nebraska | 6,056 | 0.370% | 31,440 | 2.024% | 25,384 | 419.2% |
| Louisiana | 3,945 | 0.240% | 16,849 | 1.085% | 12,904 | 327.1% |
| Vermont | 1,161 | 0.070% | 4,880 | 0.314% | 3,719 | 320.3% |
| Kentucky | 6,096 | 0.380% | 25,017 | 1.611% | 18,921 | 310.4% |
| Rhode Island | 253 | 0.020% | 988 | 0.064% | 735 | 290.5% |
| Massachusetts | 2,384 | 0.150% | 9,004 | 0.580% | 6,620 | 277.7% |
| Connecticut | 2,386 | 0.150% | 8,889 | 0.572% | 6,503 | 272.5% |
| Wisconsin | 13,040 | 0.800% | 45,482 | 2.929% | 32,442 | 248.8% |
| Alabama | 4,712 | 0.290% | 13,120 | 0.845% | 8,408 | 178.4% |
| New Hampshire | 1,424 | 0.090% | 3,845 | 0.248% | 2,421 | 170.0% |
| Missouri | 11,668 | 0.720% | 27,461 | 1.768% | 15,793 | 135.4% |
| Tennessee | 9,084 | 0.560% | 17,928 | 1.154% | 8,844 | 97.4% |
| Arizona | 21,265 | 1.310% | 40,135 | 2.584% | 18,870 | 88.7% |
| Montana | 7,818 | 0.480% | 13,854 | 0.892% | 6,036 | 77.2% |
| Ohio | 18,042 | 1.110% | 31,834 | 2.050% | 13,792 | 76.4% |
| Oklahoma | 8,963 | 0.550% | 15,574 | 1.003% | 6,611 | 73.8% |
| Mississippi | 8,174 | 0.500% | 13,991 | 0.901% | 5,817 | 71.2% |
| Indiana | 16,285 | 1.010% | 26,006 | 1.675% | 9,721 | 59.7% |

Table IX.b (Continued)
LSC-Eligible Agricultural Worker Population by State
Current Population Estimates and DOL /
Employment and Training Administration (ETA) Estimates
In Order of Change in Size of Percentage (%) Change by State

| STATE | Current Estimate | | ETA Estimate | | Change: ETA Estimate +/- Current | |
|-------------------|------------------|-------------------------|------------------|-------------------------|-------------------------------------|-----------------------|
| | Persons | Percent (%) of Total | Persons | Percent (%) of Total | Persons | Percent (%) Change |
| New Mexico | 12,509 | 0.770% | 19,564 | 1.260% | 7,055 | 56.4% |
| Minnesota | 28,656 | 1.770% | 38,462 | 2.477% | 9,806 | 34.2% |
| Colorado | 21,272 | 1.310% | 27,458 | 1.768% | 6,186 | 29.1% |
| Idaho | 26,771 | 1.650% | 32,852 | 2.115% | 6,081 | 22.7% |
| Maine | 10,281 | 0.630% | 12,264 | 0.790% | 1,983 | 19.3% |
| Arkansas | 11,321 | 0.700% | 13,245 | 0.853% | 1,924 | 17.0% |
| Utah | 9,715 | 0.600% | 10,247 | 0.660% | 532 | 5.5% |
| North Dakota | 16,602 | 1.020% | 16,851 | 1.085% | 249 | 1.5% |
| Illinois | 35,754 | 2.210% | 35,394 | 2.279% | (360) | -1.0% |
| New York | 39,645 | 2.450% | 38,244 | 2.463% | (1,401) | -3.5% |
| Virginia | 22,589 | 1.390% | 21,058 | 1.356% | (1,531) | -6.8% |
| California | 378,096 | 23.340% | 323,521 | 20.832% | (54,575) | -14.4% |
| Pennsylvania | 23,739 | 1.470% | 20,234 | 1.303% | (3,505) | -14.8% |
| Washington | 104,545 | 6.450% | 79,936 | 5.147% | (24,609) | -23.5% |
| Oregon | 79,782 | 4.920% | 60,176 | 3.875% | (19,606) | -24.6% |
| Florida | 128,633 | 7.940% | 91,727 | 5.906% | (36,906) | -28.7% |
| North Carolina | 76,764 | 4.740% | 51,741 | 3.332% | (25,023) | -32.6% |
| Georgia | 56,155 | 3.470% | 28,820 | 1.856% | (27,335) | -48.7% |
| Michigan | 86,214 | 5.320% | 43,522 | 2.802% | (42,692) | -49.5% |
| South Carolina | 28,330 | 1.750% | 13,547 | 0.872% | (14,783) | -52.2% |
| New Jersey | 17,281 | 1.070% | 8,008 | 0.516% | (9,273) | -53.7% |
| Maryland | 13,022 | 0.800% | 5,729 | 0.369% | (7,293) | -56.0% |
| Texas | 198,948 | 12.280% | 83,809 | 5.397% | (115,139) | -57.9% |
| Delaware | 3,556 | 0.220% | 1,472 | 0.095% | (2,084) | -58.6% |
| Puerto Rico | 41,642 | 2.570% | 7,098 | 0.457% | (34,544) | -83.0% |
| Total U.S. | 1,619,982 | 100.000% | 1,553,003 | 100.000% | (66,979) | -4.13% |

The state estimates are substantially affected by variances in the percentage of the agricultural population in each state that are LSC-eligible (i.e., have incomes below the poverty line and meet LSC eligibility criteria regarding citizenship and alien status). These percentages are determined by factors that can differ across the country, such as income levels, family size (including the number of unaccompanied workers) and the percent of dependents who are citizens that reside with unauthorized workers.

The data in Table IX.c show, for each state, the average number of workers that are LSC-eligible and the average number of LSC-eligible dependents per worker (for all workers, not just LSC-eligible workers). States in each NAWS region will have the same eligibility factors, because, as discussed in Appendix A, eligibility calculations can only be calculated at the regional level. As those data show, the percentage of the agricultural workforce that is eligible for LSC services ranges from 7% in the Southeast to 31% in Arizona and New Mexico, and the average number of LSC-eligible dependents per worker ranges from .15 in the Mid-Atlantic to .65 in Arizona and New Mexico.

Table IX.c
Regional and State LSC-Eligibility Factors Used in the DOL /
Employment and Training Administration Agricultural Worker Population Estimates
Average Number of Workers & Average Number of Dependents Per Worker that Are LSC-Eligible In
NAWS Regions and States

| NAWS Region | States in Region | Percent of Agricultural Workers that Are LSC-Eligible | Average LSC Eligible-Dependents Per Agricultural Worker |
|-----------------|---------------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------------|
| NE 1 | Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont | 17 | .30 |
| NE 2 | Delaware, Maryland, New Jersey, Pennsylvania | 18 | .15 |
| AP | Kentucky, North Carolina, Tennessee, Virginia, West Virginia | 20 | .19 |
| DSE | Alabama, Arkansas, Georgia, Louisiana, Mississippi, South Carolina | 07 | .23 |
| FL | Florida | 09 | .46 |
| SP | Oklahoma, Texas | 19 | .33 |
| CBNP | Illinois, Indiana, Iowa, Kansas, Missouri, Nebraska, North Dakota, Ohio, South Dakota | 23 | .24 |
| LK | Michigan, Minnesota, Wisconsin | 13 | .33 |
| MT 12 | Colorado, Idaho, Montana, Nevada, Utah, Wyoming | 14 | .32 |
| MT 3 | Arizona, New Mexico | 31 | .65 |
| PC | Washington, Oregon | 09 | .39 |
| CA | California | 10 | .33 |
| Not NAWS Region | Alaska, Hawaii, Puerto Rico | 14 | .31 |

APPENDIX A

Memorandum from the U.S. Department of Labor Employment and Training Administration with estimates of LSC-eligible agricultural worker population and explanation of estimation methodology



January 21, 2015

Mr. Bristow Hardin
Legal Services Corporation
3333 K Street, NW
Washington, DC 20007

Dear Bristow,

Per the terms of the Interagency Agreement that was executed on October 14, 2014 between the Department of Labor's Employment and Training Administration (ETA) and the Legal Services Corporation (LSC), I'm transmitting national and state estimates of the number of agricultural workers and their dependents, and the number eligible for LSC services.

ETA commissioned the development of these estimates to JBS International, Inc. (JBS). JBS is ETA's contractor for the National Agricultural Workers Survey (NAWS). Paralleling ETA's responsibilities in the Interagency Agreement, the task request to JBS consisted of three components: 1) calculating national and state estimates of the agricultural worker population; 2) estimating for each state the number and share of agricultural workers and dependents that are eligible for LSC services; and 3) providing a national estimate of the LSC-eligible population.

Following the process that ETA undertook to develop and evaluate farmworker population estimates for the National Farmworker Jobs Program's funding allocation formula, JBS created a technical working group (expert panel) to ensure that its estimation methodology utilized the best sources of farm labor and other data in the most appropriate fashion. The panel, which consisted of three of the nation's leading farm labor experts, was chosen by and worked with JBS independently on this project. The enclosed memorandum from JBS discusses the makeup of the panel and its input, as well as the estimation methodology. The tabled estimates are in Appendix B of the memorandum.

As the Contracting Officer's Representative for the NAWS, I reviewed the memorandum and tabled estimates and found both to be technically sound and to meet contract requirements.

Effectively targeting and equitably allocating limited resources to programs and services that aim to improve the wellbeing of farmworkers and their dependents is a challenging task. It is my hope that the accompanying memorandum and tabled estimates will be of great assistance to LSC as it carries out its mission to assist agricultural workers with legal services.

Sincerely,

Daniel Carroll
Division of Research and Evaluation
Office of Policy Development and Research
Employment and Training Administration
U.S. Department of Labor

Date: January 19, 2015
To: Daniel Carroll, DOL/ETA/OPDR
From: JBS International
Subject: Estimating the National Size and State Distribution of the LSC-Eligible Population

I. INTRODUCTION

The Legal Services Corporation (LSC) and the Department of Labor (DOL), Employment and Training Administration (ETA) executed an interagency agreement under which ETA agreed to provide population estimates to LSC on which to allocate funding for specialized services to agricultural workers and their dependents who are in poverty and are citizens, or meet the LSC eligibility criteria for services to clients who are not U.S. citizens. For the purposes of this memo, this population is referred to as the LSC-eligible agricultural worker population.¹ JBS International, Inc. (JBS), ETA's contractor for the National Agricultural Workers Survey (NAWS), undertook the estimation work, per NAWS contract terms. This memorandum provides JBS's estimates of the total size of the LSC-eligible agricultural worker population in the fifty states, the District of Columbia (DC) and Puerto Rico (PR), and the shares (and numbers) of this population that are in each of these jurisdictions. The memorandum also describes the methods JBS used to develop the estimates.

As detailed in the following sections, the methodology employed a variety of data sets and calculations. JBS incorporated the input of a panel of experts² in developing the estimation methodology. It is based on the "top down" approach used to develop population estimates for the allocation of funding for major federal programs that provide special services to farmworkers. This approach is also used by ETA to develop agricultural worker population estimates for the Congressional Budget Office. It should

¹ The income eligibility limit for LSC-funded services is 125% of the poverty line, but the allocation of funding for LSC-funded services is based on the number of persons with incomes below 100% of the poverty line.

² The panel of experts consisted of: Dr. Edward Kissam, trustee of the Werner Konhnstamm family fund and long-term researcher in the demographic characteristics of the agricultural worker population; Dr. Philip Martin, professor of agricultural economics at the University of California, Davis, and author of several publications relating to the agricultural labor market and the size and demographics characteristics of the agricultural workforce; and Dr. Don Villarejo, founder and retired director of the California Institute for Rural Studies and an expert in issues related to farmworker health, housing and demographics.

be emphasized that these are estimates, not a count of the LSC-eligible worker population. However, the methodology employs the best available data sets and the panel of experts considered this the best approach for developing accurate, reliable estimates of the agricultural worker population.

The table in Appendix B sets forth the estimates of the total LSC-eligible agricultural worker population in the U.S., the 50 states and Puerto Rico (there are no eligible agricultural workers or dependents in the District of Columbia.) In the remainder of the document, “states” refers to the 50 states and PR unless noted otherwise.

The balance of the memorandum describes the calculations and data sets used to develop these estimates. Section II describes the parameters of the LSC-eligible agricultural worker population used in the methodology. Section III provides an overview of the estimation methodology’s data sets and calculations. Section IV describes the data sets and calculations used to estimate the LSC-eligible population of H2-A and H-2B workers nationally and in each state. Section V details the specific calculations and data sets used to estimate the LSC-eligible agricultural worker population of current workers (and dependents) nationally and in each state that does not include H-2A and H-2B workers. Section VI sets forth the data sets and calculations used to estimate the LSC-eligible populations nationally and in each state of (a) retired workers (and their dependents) and (b) workers temporarily out of the workforce (and their dependents). Section VII identifies the steps used to develop the final estimates of the LSC-eligible agricultural worker population nationally and in each of the fifty states and Puerto Rico. Section VIII identifies limitations of the estimates.

II. DEFINITION OF THE LSC-ELIGIBLE AGRICULTURAL WORKER POPULATION

For the purposes of the ETA estimate, the LSC-eligible population includes agricultural workers and their dependents with incomes below 100% of the U.S. Census Bureau poverty line who also are citizens, or who meet the LSC-eligibility criteria for representation of persons who are not U.S. citizens.³

A. Persons Who Are Not Citizens. The LSC eligibility criteria for persons who are not U.S. citizens are set forth in the LSC Regulations at 45 CFR Section 1626. Persons who are not citizens are eligible for LSC-funded services if they are lawful permanent residents, or have a valid visa status. Persons with a valid visa include asylees, refugees, those with visas allowed under the Violence Against Women Act (VAWA), T visas (victims of trafficking) and U (victims of violence) visas under provisions of the Immigration and Nationalization Act (INA) regarding trafficking and violence, abuse and extreme cruelty, as well as H-2A agricultural workers and H-2B forestry workers.

³ The LSC eligibility criteria for persons who are not U.S. citizens are set forth in the LSC Regulations at 45 CFR Section 1626.

Excluded are individuals who do not have a current visa, including those in deferred deportation programs such as the Deferred Action for Childhood Arrivals (DACA) or the new Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA). Two exceptions to this exclusion are persons with pending I-130 applications for family sponsorship and persons who appear to be eligible for T and U visas or VAWA visas.

B. Agricultural Workers. The expert panel recommended that agricultural workers be defined based on their employment in establishments coded in the North American Industry Classification System (NAICS) as: 111 Crop Agriculture, and 112 Livestock, as well as establishments in the associated codes for agricultural services, 1151 and 1152, respectively. The LSC Regulations, however, specifically allow grantees to represent H-2B forestry workers. (Migrant Education also includes forestry in its definition of eligible farmworkers.) Forestry workers are employed by establishments in NAICS code 113 Forestry (and 1153, agricultural services). Therefore, for the purpose of the estimation, agricultural workers were defined as workers employed by establishments in NAICS codes: 111 Crop Agriculture, 112 Livestock, 113 Forestry, and the agricultural services codes of 1151, 1152, and 1153.

III. OVERVIEW OF METHODOLOGY AND DATA SETS

There are no U.S. Census Bureau or other available data sets that provide comprehensive, reliable information regarding the size, distribution, economic and demographic characteristics, of the agricultural worker population in the U.S. Therefore, the estimation methodology incorporated the combination of data sets that provide the most recent, comprehensive and accurate information about the agricultural worker population.

A. Top-Down Methodology. The methodology was based on the “top down” approach that the expert panel agreed was the best method for developing accurate and reliable estimates of the agricultural worker population.⁴ This approach is used by ETA to develop agricultural worker population estimates for the Congressional Budget Office and is the basis for the National Farmworker Jobs Program. While some federal programs with special services for farmworker populations rely on different approaches,⁵ the expert panel recommended that the LSC estimation methodology should use, as much as possible, the top down approach that ETA uses for the National

⁴ This term was first used by Dr. Philip Martin, in his *Harvest of Confusion: Migrant Workers in U.S. Agriculture* (Westview Press. Boulder, CO, 1988).

⁵ For a more complete explanation of the different methods used to allocate federal funds for services to farmworker populations see “Methodologies for Estimating the Migrant Population”, a memo submitted to the National Center for Farmworker Health by Susan Gabbard, August 5, 2005 <http://www.ncfh.org/docs/NCFHattach/6Methodologies%20for%20Estimating%20the%20Migrant%20Population,%20Susan%20Gabbard,%20Aguirre%20Int%271%208.5.05.pdf>.

Farmworker Jobs Program (NFJP) and should include in the state estimates factors for which there were reliable state level data from a national source.⁶

This method yields the most valid, accurate estimates because it employs publically-available, national data sets and comparable methods for each geographic area. In addition, the use of public data sets and similar methods provides for the greatest transparency and fairness.

B. Major Calculations. As detailed in the following sections of the memorandum, the estimates of the LSC-eligible populations were derived from calculations to develop the following:

1. Base estimate of the number of agricultural workers in each state.
2. Base estimate of the number of LSC-eligible agricultural workers in each state.
3. Estimate of the number of LSC-eligible agricultural workers in each state who are temporarily out of the agricultural workforce (and their dependents).
4. Estimate of the number of LSC-eligible retired agricultural workers (and their dependents) in each state.
5. Estimate of the number of number of LSC-eligible H-2A agricultural workers and H-2B forestry workers in each state.

The estimate of the LSC-eligible agricultural worker population in each state is the sum of the population estimates calculated in steps 2, 3, 4 and 5 above.

The estimate of the LSC-eligible population nationally is the sum of all of the states' LSC-eligible populations.

C. Data Sets. Data from the following sources were used in the calculations to develop the above estimates:

1. United States Bureau of the Census (Census Bureau) Poverty Thresholds.
2. United States Department of Agriculture (USDA) 2012 Census of Agriculture (COA).⁷
3. USDA / National Agricultural Statistics Service (NASS) Farm Labor Survey (FLS).
4. United States Department of Labor (DOL) ETA 2008-2012 National Agricultural Workers Survey (NAWS).

⁶ The NFJP allocation was first developed with the guidance of an Interagency Task Force comprised of members from DOL's Office of Policy and its Bureau of Labor Statistics. The Task Force also included representation from the Bureau of the Census at the Commerce Department, the Economic Research Service at the Agriculture Department, and the Executive Director of the Association of Farmworker Opportunity Programs – an association of Migrant and Seasonal Farmworker Program grantees.

⁷ United States Department of Agriculture (USDA), National Agricultural Statistics Service (NASS). Special Tabulation of 2012 Census of Agriculture. ID 23194. 2012 Farm labor data by NAICS 111 and 112. Requested by JBS International. Released on 6/10/2014. Accessed at http://www.nass.usda.gov/Data_and_Statistics/Special_Tabulations/Request_a_Tabulation/data-lab-records.html.

5. DOL, Bureau of Labor Statistics (BLS) 2012 Quarterly Census of Employment and Wages (QCEW).⁸
6. DOL, Office of Foreign Labor Certification (OFLC) 2012 H-2A and H-2B Visa Certifications.
7. DOL, OFLC 2012 Adverse Event Wage Rates

Note that FLS data and NAWS data are available only for the regional level.

Therefore, all states in the region are assigned the same values for factors derived from the FLS and the NAWS. Appendix A contains a map which shows the states in each NAWS region.⁹ To achieve the sample size needed for robust regional estimates from the NAWS, five years of data were combined. For example, the average regional wage for Federal Fiscal Years 2008 through 2012 was used for all the states in each given region. Single-year FLS data are valid at the national level.

IV. CALCULATING THE NUMBER OF ELIGIBLE H-2A WORKERS AND H-2B FORESTRY WORKERS

The estimates of the population of LSC-eligible H-2A workers and H-2B forestry workers (H-2 workers) were developed separately from the estimates of the rest of the LSC-eligible agricultural worker populations for several reasons. In particular: all H-2 workers meet the LSC eligibility criteria for authorization status; reliable data are available from the DOL Office of Foreign Labor Certification (OFLC) regarding factors such as the number of H-2 workers nationally and in each state, the average wages of H-2 workers, and the average weeks worked of H-2 workers; virtually all H-2 workers are unaccompanied by family members; and H-2 workers are not included in the NAWS.

As noted above, all H-2 workers met LSC eligibility criteria for authorization status. It was estimated that all H-2 workers also had household incomes below the poverty line. Thus, all H-2 workers were counted as LSC-eligible. The estimates of the LSC-eligible H-2 worker populations nationally and in each state were derived from the following data sets and calculation.

The numbers of H-2 workers nationally and in each state were identified using OFLC data. These data identify the total number of H-2A workers nationally¹⁰ and the number

⁸ Bureau of Labor Statistics (BLS), Quarterly Census of Employment and Wages. Table built from query November 21, 2014 for NAICS 113 and 1153, accessed at http://www.bls.gov/cew/apps/data_views/data_views.htm.

⁹ The NAWS has 12 regions derived from the 17 FLS regions. NAWS combines the FLS regions as follows. Delta and Southeast, two FLS Northeast Regions, two Appalachian regions, two Mountain regions and creates one region from the two Cornbelt regions and the two Northern Plains regions.

¹⁰ United States Department of Labor (DOL), Office of Foreign Labor Certification. H-2A Temporary Agricultural Labor Certification Program - Selected Statistics, FY 2012. November 21, 2014. Accessed at http://www.foreignlaborcert.doleta.gov/pdf/h_2a_temp_agricultural_visa_2012.pdf.

of H-2A workers in each state, including Puerto Rico.¹¹ They also include the number of H-2B forestry workers nationally¹² and the number of H-2B forestry workers (if applicable) in each state.¹³ (Forestry workers made up a small portion of the H-2B workforce and not all states have H-2B forestry workers.)

The poverty status of H-2 workers was determined using the following data sets and calculations.

- For each certified H-2A and H-2B contract, OFLC reports data including the length of the contract, and the number of workers certified.
- These OFLC data and FLS data were used to estimate the income per contract:
 1. Average contract length (OFLC data) was divided by seven to get the number of weeks in the contract.
 2. Number of weeks in the contract (previous step) was multiplied by the national average hours worked per week (FLS data), to get the number of hours in the contract.
 3. Number of hours in the contract (previous step) was multiplied by the OFLC 2012 Adverse Effect Wage Rate (AEWR), resulting in an estimate of the income per contract.

This approach was based on the following reasoning. OFLC data provide no data regarding average hours worked per week. Therefore, the expert panel recommended the use of FLS data for hours. Further, employers were required to guarantee payment of 75 percent of the contract's value. This regulation guaranteed an income to the worker while recognizing the uncertainty of crop timing. Employers would be likely to ask for a contract that extended beyond the usual harvest season so as not to be caught short if the harvest was late. To parallel this, the estimated income per contract was multiplied by 75 percent to get the estimated income per contract.

- A worker's poverty status was derived by comparing estimated income per contract to the U.S. Census Bureau's 2012 poverty threshold for a single individual under the age of 65 (\$11,945).

This calculation indicated that approximately 90 percent of H-2A workers and 82 percent of H-2B forestry workers were on a contract whose estimated income would qualify them as poor.

¹¹ DOL, Office of Foreign Labor Certification. Annual Report October 1, 2011-September 30, 2012. December 8, 2014. Access at http://www.foreignlaborcert.doleta.gov/pdf/OFLC-2012_Annual_Report-11-29-2013-Final%20Clean.pdf.

¹² DOL, Office of Foreign Labor Certification. H-2B Temporary Non-Agricultural Labor Certification Program - Selected Statistics, FY 2012. November 21, 2014. Accessed at http://www.foreignlaborcert.doleta.gov/pdf/h_2b_temp_non_agricultural visa_2012.pdf.

¹³ DOL's Office of Foreign Labor Certification. H-2B Performance Data FY 2012. December 7, 2014. Accessed at <http://www.foreignlaborcert.doleta.gov/performancecdm>.

These calculations assumed that the H-2A or H-2B contract was the worker's only income relevant to the determination of his/her poverty status. The calculations also assumed that H-2 workers had no dependents, since there was no information on the numbers of dependents these workers had. Surveys of H-2A workers have shown that these workers are mostly unaccompanied in the U.S. and would not have many lawfully present dependents. At the same time, many H-2A workers were supporting dependents in their home country. Both U.S. and home-country dependents should be included in determining workers' poverty status. Since poverty rates among H-2 workers were very high when they were considered as single individuals, it is likely that almost all would be considered poor if dependents were added to the calculation. Hence, for the purpose of the population estimation, all H-2 workers were considered LSC-eligible *with no LSC-eligible dependents*.

The estimated numbers of H2A workers and H-2B forestry workers in each state and nationally are identified in columns G and H, respectively, of the table in Appendix B.

V. BASE ESTIMATES OF THE LSC-ELIGIBLE AGRICULTURAL WORKER POPULATION EXCLUDING H-2 WORKERS

Since the calculations for H-2 workers were done separately (Section IV), this section sets forth the specific calculations and data sets used to estimate the "base estimates" of LSC-eligible agricultural workers and the LSC-eligible agricultural worker population, *excluding H-2 workers*. All references to agricultural workers in this section are to workers who are not H-2 workers.

In each state, the regional ratio of LSC-eligible persons per farmworker was multiplied by the corresponding state population estimate not including of H-2 workers. The result was the number of LSC-eligible individuals without a H-2A or H-2B visa.

Note that the national estimates of these populations are derived by summing all of the state estimates / shares. The validity and strength of this approach was set forth by Amang Sukasih and Frank Potter in their analysis of three top-down estimates of the farm labor force.¹⁴ They endorsed calculating the estimates at the lower levels of aggregation and then summing the results (e.g., calculating population sizes at the state or regional level and then aggregating to the national level).

A. Base estimates of the number of agricultural workers nationally and in each state

The base estimate is derived from the following calculations:

¹⁴ Memo to Daniel Carroll DOL/ETA/OPDR from Amang Sukasih and Frank Potter dated 9/30/2013, "Review on the Estimation of Agricultural Workers ('Top-Down' Estimation)."

- Total labor expenditures per state ÷ the average hourly wage = the total number of hours worked;
- Total number of hours worked (from last step) ÷ the average hours worked per week = total number of weeks worked;
- Total number of weeks worked (from last step) ÷ the average number of weeks worked per worker per year = the number of workers.

As noted above, the base of workers in each state was calculated first. Then the national estimate was derived by summing all of the state estimates.

The factors used in the above calculations employed different data sets for different categories of workers. Based on the recommendations of the expert panel, the following data sets were used:

- Labor expenditures for directly hired and contract workers: Data for crop and livestock workers nationally and for each state came from the USDA 2012 COA.¹⁵ These labor expenditure data are available separately, by special request to USDA, for directly hired and labor-contracted crop and livestock workers. The COA does not provide expenditure data for off-farm forestry work. The opinion of the expert panel was that the BLS QCEW had the best data for forestry workers. Therefore, 2012 QCEW data was used to estimate the annual average employment and annual wages in 2012 for forestry and forestry services workers.¹⁶
- Average hourly wage:
 - 1) The combined “field and livestock” wage data from the USDA FLS were used to derive the average hourly wage of all livestock workers in each state; separate average hourly wages for directly-hired and labor-contracted livestock workers were not used in the estimates because the FLS does not report the wages of labor-contracted workers.¹⁷ The FLS does not include data for Alaska or Puerto Rico, so the national level data was used for the estimates of the average livestock wages for those states.

¹⁵ United States Department of Agriculture (USDA), National Agricultural Statistics Service (NASS). Special Tabulation of 2012 Census of Agriculture. ID 23194. 2012 Farm labor data by NAICS 111 and 112. Requested by JBS International. Released on 6/10/2014. Accessed at http://www.nass.usda.gov/Data_and_Statistics/Special_Tabulations/Request_a_Tabulation/data-lab-records.html

¹⁶ Bureau of Labor Statistics (BLS), Quarterly Census of Employment and Wages. Table built from query November 21, 2014 for NAICS 113 and 1153, accessed at http://www.bls.gov/cew/apps/data_views/data_views.htm.

¹⁷ USDA, NASS. Farm Labor Survey, November 19, 2012. Annual Average Wage Rates - Region and United States: 2011 and 2012. Field workers. NASS does not report a separate livestock wage. Per personal communication from Daniel Carroll (October 31, 2014), the following formula was used to derive the livestock wage. If the combined wage = 0.7* crop wage + 0.3*livestock wage, then the livestock wage equals the difference between the combined wage and 0.7*crop wage divided by 0.3. See: <http://usda.mannlib.cornell.edu/usda/nass/FarmLabo//2010s/2012/FarmLabo-11-19-2012.pdf> (p. 24).

- 2) Data from the DOL / ETA NAWS were used for all crop workers in each state, including directly-hired and labor-contracted workers.¹⁸ JBS, in consultation with ETA's Contracting Officer's Representative for the NAWS, determined that NAWS data on average hourly earnings for all crop workers was the best wage to use because the FLS wage data did not reflect wages paid to contract workers; contract labor expenditures in crop agriculture, nationally, comprise 30 percent of total labor expenditures.
 - 3) The NAWS does not collect data in Alaska, Hawaii, or Puerto Rico, so the national-level average wage was applied to those three jurisdictions.
 - 4) The 2012 AEW from DOL, OFLC was used to determine wages for NAICS code 113 employees.¹⁹ There were no national surveys of forestry workers' wages in 2012. LSC grantees serve H-2B forestry workers, and these workers must be paid at least the AEW. JBS reasoned that the AEW is the best proxy to use for forestry workers' wages because it is a prevailing wage for agricultural tasks similar to forestry work. There is no AEW for Puerto Rico or Alaska, so the 2012 AEW national level data was used for those estimates.
- Average number of hours worked per week:
 - 1) The FLS²⁰ was used for the number of hours worked per week in all three occupational categories - crop, livestock and forestry. (Like the hourly wage estimates, the FLS hours worked per week estimates do not include contract labor.) While the FLS does not survey forestry workers, the expert panel agreed that crop and livestock workers work roughly similar numbers of weeks during the year as do forestry workers.
 - 2) The FLS did not include data for Alaska or Puerto Rico in 2012, so the national level data was used for the estimates of the hours worked per week for those jurisdictions.
 - Average number of weeks worked per year:
 - 1) On the recommendation of the expert panel, the calculation for the size of the workforce used NAWS regional averages of the number of weeks worked in farm work per year.²¹ While the NAWS surveys only crop workers, the experts agreed that livestock and forestry workers work roughly similar numbers of weeks during the year as do crop workers.
 - 2) The national average was used for Alaska, Hawaii and Puerto Rico.

¹⁸ DOL, National Agricultural Workers Survey (restricted data).

¹⁹ DOL, U.S. Department of Labor's Office of Foreign Labor Certifications. Adverse Effect Wage Rate Chart 2007-2012. Accessed at <http://www.dol.gov/opa/media/press/eta/ETA20111794fs.pdf>.

²⁰ USDA, NASS. Farm Labor Survey, November 19, 2012. Annual Average Number of Hired Workers and Hours Worked - Region and United States: 2011 and 2012. See <http://usda.mannlib.cornell.edu/usda/nass/FarmLabo//2010s/2012/FarmLabo-11-19-2012.pdf> (p. 23).

²¹ DOL, National Agricultural Workers Survey (restricted data).

The base estimate of the number of agricultural workers in each state and the U.S. is shown in Column B of the table in Appendix B.

B. Base estimates of the number of LSC-eligible agricultural workers and dependents nationally and in each state

The base estimates of the total LSC-eligible agricultural worker population nationally and in each state was derived using the following calculations:

- Total number of agricultural workers in each state (from V.a. above) x percentage of LSC-eligible agricultural workers in the state = number of LSC-eligible agricultural workers in the state.
- Total number of agricultural workers in each state x the average number of eligible dependents per worker in the state = number of LSC-eligible dependents in the state.

As with the base estimates of the population of agricultural workers, the estimates of the numbers of LSC-eligible agricultural workers and dependents were first calculated at the state level. The national estimate was then derived by summing all of the state estimates.

The two LSC eligibility factors relate to poverty status and authorization status. The members of the expert panel agreed that the NAWS was the only reliable source of data on farmworker demographics that could provide the information needed for calculating worker and dependent eligibility. The NAWS was designed to provide valid and reliable data on crop workers using data collection methods developed specifically for this seasonal and migratory population, which is often omitted from or undercounted in other data sources. Both ETA and Migrant and Seasonal Head Start (MSHS) use NAWS data in estimating the size of their farmworker service populations. In addition, the NAWS provides information for the Congressional Budget Office on legislation affecting farmworkers.

The NAWS collects data on workers employed in crop agriculture. Because the sources of data on forestry and livestock worker demographics and dependents were scattered, the panel agreed that applying findings from the NAWS to these workers was a better option than using incomplete or old data on forestry or livestock workers.

As noted above (page 5), NAWS data are available only for the regional level. The NAWS collects state-level data for only two states (California and Florida). For the remaining states, the panel recommended using the corresponding NAWS regional estimate.

NAWS data were used to calculate the poverty and authorization status of both agricultural workers and their dependents.

LSC-eligible agricultural workers. As indicated above, to estimate the number of LSC-eligible agricultural workers (i.e., authorized and in poverty) in a state it was necessary to calculate the percentage of farmworkers in the state that was LSC eligible. The estimation of *poverty status was computed using the following data sets and calculation:*

- Information about workers' household income and household size were derived from NAWS data. The total household income was the income that the farmworker respondent reported for the calendar year prior to the NAWS interview.

In determining household size, the expert panel endorsed a definition of household as the economic household, which the NAWS survey instrument defined as all individuals who share income and expenses. There were no a priori restrictions on the relationship or the residence location of members of the economic household. Household members could include extended family members or unrelated individuals, so long as they shared resources with the farmworker. Economic household members could include individuals residing with the farmworker, living elsewhere in the United States, or living abroad.

- The poverty status of the agricultural worker was determined by comparing the U.S. Census Bureau poverty threshold for the worker's household size to the total household income.

Workers' authorization status also was determined based on NAWS data.

- The NAWS has a series of questions on legal status that focus on identifying whether foreign-born workers have authorization to work in the U.S. NAWS respondents were asked whether they were born in the U.S. or abroad, their citizenship or visa status, what visa program they applied for, when they applied, when they received their visa, and whether they had work authorization.

The NAWS then creates a legal status variable using an algorithm that tests the consistency and completeness of the respondents' answers and assigns workers to one of four categories: citizen, lawful permanent resident, other work authorization visa holder, or unauthorized. Workers in the "other work authorized" category can have a variety of visa types including U visas for victims of crime and T visas for victims of human trafficking. An algorithm crosschecks the information given by the respondent with the requirements for the visa.

These data for authorized workers with household incomes below the poverty line were used to calculate the percentage of agricultural workers in each state that was LSC-eligible. (Note that each state's percentage is based on the regional percentage.) In the table in Appendix B, the percentage of agricultural workers in each state that is LSC-eligible is identified in column C and the numbers of LSC-eligible workers in each state and nationally are identified in column D.

Using Alabama as an example, the estimated number of LSC-eligible agricultural workers, noted in column D, is 3,502. This is obtained by multiplying the estimated share of agricultural workers in the region containing Alabama who are LSC-eligible (.0734882269092308), noted as the rounded 7 percent in column C, by the estimated number of non H-2 workers (column B minus the sum of columns G and H), and then adding back in the number of H-2 workers (G + H):

$$3,502 = [(34,241 - (681 + 383)] \times .0734882269092308 + (681 + 383)$$

or, using the column letters:

$$D = C \times [B - (G + H)] + (G + H).$$

LSC-eligible dependents. As indicated above, the estimate of the population of LSC-eligible dependents in a state was derived from the average number of eligible dependents per worker in the region containing the state. Dependents' LSC-eligibility was determined only by their legal status and dependence on a poor farmworker. Unauthorized farmworkers could have eligible dependents. In poor farmworker households that included both lawful and unauthorized dependents, only the lawfully-present dependents were counted.

The average number of eligible dependents per worker in a state was calculated using NAWS data. The NAWS includes a set of questions to collect data on members of the farmworkers' economic households that include each member's relationship to the farmworker and place of birth. These data were used to determine the average number of LSC-eligible dependents in each farmworker's household. Farmworkers ages 14 and above in the economic household are part of the NAWS sampling frame and accounted for in the estimate of eligible farmworkers. For calculation purposes, household dependents included farmworkers under the age of 14 and all other household members.

The average number of LSC-eligible individuals per farmworker was estimated by calculating the average number of eligible dependents for all of workers (again, excluding H-2 workers).

If the farmworker was LSC-eligible (i.e., authorized and household in poverty), the number of LSC eligible individuals in a household was expressed as follows:

1 + number of LSC-eligible dependents * dependent weight.

If the household was poor and the farmworker was unauthorized, the number of eligible individuals in the household was expressed as follows:

0 + number of LSC-eligible dependents * dependent weight

The dependent weight accounted for the multiple reporting of dependents in households with more than one farmworker in the NAWS sampling frame. The formula for the weight was:

Dependent weight = 1 / number of farmworkers ages 14 and over in the household

This weight is one if the respondent is the only farmworker in the household, one-half if there are two farmworkers in the household, one third if there are three farmworkers in the household, and so on.

In the table in Appendix B, the average number of LSC-eligible dependents per worker in each state (which is derived from the regional average) is listed in column E and the numbers of LSC-eligible dependents in each state and nationally are listed column F.

VI. AGRICULTURAL WORKERS TEMPORARILY OUT OF THE WORKFORCE OR RETIRED

Federal farmworker service programs generally include some farmworkers not currently in the labor force. These include workers who were unemployed, disabled, retired, temporarily out of the labor force for family or other reasons, or temporarily working in a non-farm job. There is no reliable and consistent state-level data on workers not currently in the labor force, so calculations to estimate the size of this population took place at the national level using national data. There is little guidance in the “top down” approach for estimating the population of workers currently out of the workforce or who are retired. Therefore, the estimation model used a “look back” method and cohort analysis using NAWS data to estimate these populations.

As noted above, the estimates of the populations of agricultural workers and the LSC-eligible populations were first calculated for the states and then national estimates were calculated by adding together the state estimates. However, there are not state or regional data about the populations of agricultural workers that are retired or out of the workforce. Therefore, the expert panel recommended that the populations of these workers should be calculated at the national level. However, as LSC must use consistent state and national estimates to equitably distribute legal services funds to grantees throughout the country, it was necessary to estimate the numbers of these persons in each state. In consultation with ETA’s Contracting Officer’s Representative, JBS constructed state estimates that included agricultural workers temporarily out of the labor force or retired. The estimates of the sizes of these populations in each state

were derived by allocating proportionately to each state their respective shares of the total base population of LSC agricultural workers and their dependents and the LSC-eligible H-2 population.

Estimating LSC-Eligible Agricultural Workers Temporarily Out of the Workforce

One way that federally-funded farmworker service programs handle temporary absences from the farm labor force is to include a “look-back” period in their eligibility criteria. These look-back periods include farmworkers who do not currently meet program eligibility criteria but who did at some time during the recent past. This would include farmworkers unemployed for short or long periods of time, those temporarily or permanently disabled, as well as those caring for family members or recently retired.

Service programs vary in the length of their look-back periods.²² Look-back periods are usually defined in terms of an eligibility window. A two-year look-back period would include agricultural workers in the current year’s labor force plus those who were active farmworkers the previous year but not in the current year. For example, a two-year look-back period could include individuals who were active farmworkers in 2012 plus those who had worked in farm work in 2011 but not 2012. A three-year look-back period could include workers active in the 2012 farm labor force plus those who had worked in 2010 or 2011 but not in 2012.

As noted above, there is little guidance on how to measure the look-back period in a top-down estimate. Federal agencies use look-back periods for eligibility, not population estimates. Furthermore, no national surveys include information about respondents’ prior farm work history. The approach taken here was to use a cohort analysis. Demographers use this method to estimate changes to population sizes by examining the behavior of cohorts over time. The cohorts for the look-back period include all farmworkers who were new to the farm labor force in a particular calendar year. The look-back analysis measured absences from the farm labor force as the difference between the size of the cohort when it entered farm work and its size in subsequent years. It derives this information from a NAWS survey question that asks farmworkers to identify the year they first did farm work.

The three-year look-back period appeared appropriate for the LSC estimation. The look-back period was then calculated as the difference in the number of farmworkers absent from the labor force over a three-year period beginning in 2010 and ending in 2012. To apply this crop worker estimate to workers in livestock and forestry, the size of the look-back period was expressed as the ratio of workers not in the 2010-2012 labor force to workers in the 2012 labor force. This ratio was 8.4 percent.

²² MSHS and Migrant Health have a two-year look back period to account for the seasonality of farm work, given that their eligibility guidelines require that 50 percent of the worker’s income in at least one 12-month period during the look back be from farm work. Migrant Education has a three-year focus, as its purpose is to remedy the impacts of education disrupted by migration. Students may need assistance over time in order to achieve the desired education outcomes.

This calculation assumed that workers temporarily out of the labor force had the same demographic characteristics and numbers of dependents as those currently working.

To derive estimates of the LSC-eligible populations of agricultural workers temporarily out of the workforce (and their dependents), the base estimate of the LSC-eligible population (including H-2 workers) in the state and nationally was multiplied by 8.4%.

Retired Farmworkers

While look-back periods are a good option for handling temporary absences from farm work, they do not include workers who exited the farm work force due to long-term disabilities or who have been retired for more than three years. Very little information was available to help determine the size of the retired farmworker population. Among the major migrant service programs, Migrant Health explicitly serves retired farmworkers. JBS consulted the National Center for Farmworker Health (NCFH) on their experience estimating retired farmworker populations for local health clinics. NCFH's calculations for the size of the retired farmworker population rely on local information, Census data on the population over age 65, and the size of the farm labor force relative to the total local labor force. NCFH used this method as one component of a process forecasting patient counts for migrant and community health centers.

For the LSC estimate, JBS used a cohort analysis to provide information on the ages of farmworkers no longer in the labor force. The cohorts consisted of all NAWS respondents with the same birth year. Similar to the calculations for the look-back period, the analysis focused on identifying the number of individuals in the birth cohort who were no longer in the farm labor force. There was no way to identify the size of the entering class for each of these age groups as they were already in farm work when the NAWS began. As a result, 1989 was used as the base year. The workers in these birth-year cohorts were ages 45 years or older when the NAWS began collecting data in Fall 1988.

There was no national source of data on either the age at which farmworkers retire or their average lifespan. In 2011, the average U.S. life expectancy was 78.7 years.²³ The model used by JBS acknowledged that farm work was physically difficult and, as a result, workers may retire before their full retirement age. It also acknowledged that poverty and other factors might reduce farmworkers' lifespans. As a result, the model assumed that workers spent an average of 10 years in retirement, retiring after age 65 and dying in their mid-70s.

Using these assumptions, JBS calculated the ratio of retired farmworkers to working farmworkers as 10 percent. Multiplying the national base population by 10 percent resulted in approximately 130,000 retired farmworkers ages 65-75, and their

²³ Centers for Disease Control and Prevention. Morbidity and Mortality Weekly Report (MMWR). *QuickStats: Life Expectancy at Birth, by Sex and Race/Ethnicity – United States, 2011*. Accessed at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6335a8.htm>.

dependents, in 2012. This calculation assumed that retired farmworkers had similar demographic characteristics and the same number of dependents as currently working farmworkers.

To derive estimates of the LSC-eligible retired agricultural worker population, the base estimate of the LSC-eligible population (including H-2 workers) in the state and nationally was multiplied by 10.0%. Column J of the table in Appendix B lists the number of the LSC-eligible population of retirees and their dependents, and workers temporarily out of the workforce and their dependents.

VII. FINAL ESTIMATES OF THE LSC-ELIGIBLE AGRICULTURAL WORKER POPULATION NATIONALLY AND IN EACH OF THE FIFTY STATES AND PUERTO RICO

States' LSC-eligible agricultural worker populations

The total number of LSC-eligible individuals in each state was the sum of the number of eligible H-2A and H-2B forestry workers plus the number of other LSC-eligible workers, LSC-dependents, and the number of retirees and workers temporarily out of the workforce and their dependents:

LSC-Eligible Agricultural Worker State Population (column K) =
H-2 workers (column G + column H) + LSC-eligible workers (column D) + LSC-eligible dependents (column F) + LSC eligible retirees/temporarily out of work and dependents (column J).

National LSC-eligible agricultural worker population

The national LSC-eligible agricultural worker population is the sum of all of the states' agricultural worker populations (column K):

National LSC-Eligible Agricultural Worker Population (last row in column K) =
Sum of All States' LSC-Eligible Agricultural Worker Population (sum of all other rows in column K).

States' shares of the national LSC-eligible agricultural worker population

Each state's respective share of the national agricultural worker population was calculated by dividing its LSC-eligible agricultural worker population by the national LSC-eligible agricultural worker population:

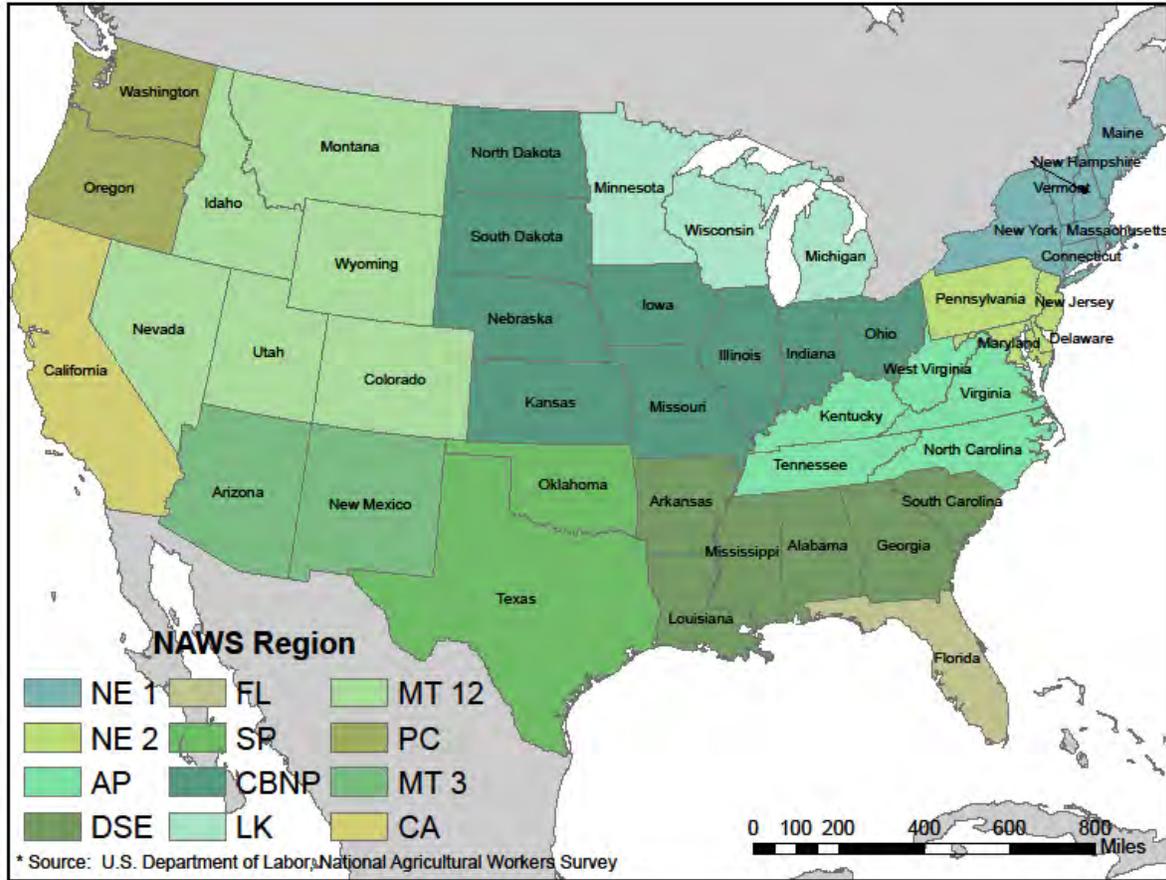
State Share of the Total LSC Eligible Population (Column L) =
LSC-Eligible Agricultural Worker State Population (column K) ÷
National LSC-Eligible Agricultural Worker Population.

VIII. Limitations of the Estimates

Because there were no existing data on the counts of farmworkers and the number of farmworkers and dependents that met LSC-eligibility criteria, LSC asked JBS to produce an estimate of the LSC-eligible population. JBS consulted experts and relied on best practices in constructing the estimates and followed the experts' recommendation of using a top-down approach to produce the most accurate and equitable state shares. JBS used the best available data at each step of the process.

The estimates of the LSC-eligible population included limitations resulting from the many necessary assumptions made in order to do the calculations, the varying data definitions, and lack of existing information on some groups within the LSC-eligible population. Each of these may have introduced varying degrees of uncertainty or inaccuracy in the estimates that could result in under- or over-estimating the population size. It appeared likely that many of these limitations had effects that to some degree offset each other.

Appendix A: NAWS Sampling Regions



APPENDIX B

ESTIMATES OF THE LSC-ELIGIBLE AGRICULTURAL WORKER POPULATION BY STATE AND NATIONALLY

TOTAL NUMBER NATIONALLY AND STATE NUMBER AND PERCENTAGE SHARE

| A | B | C | | D | E | | F | G | | H | I | J | K | L |
|---------------|---------|----------------------|----------------------------------------|------|-------------------------|---------------------------|-------|---------------------------|---------------|---------|---------|---|---|---|
| | | LSC Eligible Workers | Percentage (%) of LSC-eligible Workers | | LSC Eligible Dependents | Average Number per Worker | | LSC-Eligible H-2A Workers | H-2B Forestry | | | | | |
| ALABAMA | 34,241 | 7% | 3,502 | 0.23 | 7,574 | 681 | 383 | 11,076 | 2,044 | 13,120 | 0.845% | | | |
| ALASKA | 2,759 | 14% | 405 | 0.31 | 848 | 22 | - | 1,254 | 231 | 1,485 | 0.096% | | | |
| ARIZONA | 35,130 | 31% | 13,942 | 0.65 | 19,939 | 2,375 | 2,049 | 33,881 | 6,254 | 40,135 | 2.584% | | | |
| ARKANSAS | 30,802 | 7% | 4,766 | 0.23 | 6,415 | 2,701 | - | 11,181 | 2,064 | 13,245 | 0.853% | | | |
| CALIFORNIA | 633,978 | 10% | 63,103 | 0.33 | 210,006 | 2,862 | 76 | 273,109 | 50,412 | 323,521 | 20.832% | | | |
| COLORADO | 48,899 | 14% | 7,943 | 0.32 | 15,237 | 1,079 | - | 23,180 | 4,278 | 27,458 | 1.768% | | | |
| CONNECTICUT | 15,159 | 17% | 3,210 | 0.3 | 4,294 | 721 | - | 7,504 | 1,385 | 8,889 | 0.572% | | | |
| DELAWARE | 3,655 | 18% | 685 | 0.15 | 558 | 32 | - | 1,243 | 229 | 1,472 | 0.095% | | | |
| FLORIDA | 134,352 | 9% | 18,471 | 0.46 | 58,963 | 6,945 | 98 | 77,433 | 14,294 | 91,727 | 5.906% | | | |
| GEORGIA | 60,532 | 7% | 12,493 | 0.23 | 11,836 | 8,227 | 456 | 24,329 | 4,491 | 28,820 | 1.856% | | | |
| HAWAII | 23,706 | 14% | 3,403 | 0.31 | 7,319 | 98 | - | 10,722 | 1,979 | 12,701 | 0.818% | | | |
| IDAHO | 56,144 | 14% | 10,902 | 0.32 | 16,831 | 1,980 | 1,340 | 27,733 | 5,119 | 32,852 | 2.115% | | | |
| ILLINOIS | 62,896 | 23% | 15,141 | 0.24 | 14,737 | 784 | - | 29,879 | 5,515 | 35,394 | 2.279% | | | |
| INDIANA | 46,347 | 23% | 11,065 | 0.24 | 10,888 | 458 | - | 21,953 | 4,053 | 26,006 | 1.675% | | | |
| IOWA | 81,458 | 23% | 19,731 | 0.24 | 19,049 | 1,173 | - | 38,780 | 7,158 | 45,938 | 2.958% | | | |
| KANSAS | 53,173 | 23% | 12,868 | 0.24 | 12,438 | 751 | - | 25,307 | 4,671 | 29,978 | 1.930% | | | |
| KENTUCKY | 45,957 | 20% | 13,104 | 0.19 | 8,014 | 4,754 | - | 21,118 | 3,899 | 25,017 | 1.611% | | | |
| LOUISIANA | 31,467 | 7% | 8,586 | 0.23 | 5,638 | 6,771 | - | 14,224 | 2,625 | 16,849 | 1.085% | | | |
| MAINE | 21,328 | 17% | 4,196 | 0.3 | 6,156 | 584 | 44 | 10,353 | 1,911 | 12,264 | 0.790% | | | |
| MARYLAND | 13,197 | 18% | 2,902 | 0.15 | 1,934 | 639 | - | 4,836 | 893 | 5,729 | 0.369% | | | |
| MASSACHUSETTS | 15,673 | 17% | 3,073 | 0.3 | 4,528 | 449 | - | 7,601 | 1,403 | 9,004 | 0.580% | | | |
| MICHIGAN | 80,549 | 13% | 10,514 | 0.33 | 26,226 | 344 | - | 36,740 | 6,782 | 43,522 | 2.802% | | | |
| MINNESOTA | 70,633 | 13% | 9,621 | 0.33 | 22,847 | 761 | - | 32,468 | 5,994 | 38,462 | 2.477% | | | |
| MISSISSIPPI | 31,169 | 7% | 5,482 | 0.23 | 6,329 | 2,255 | 1,190 | 11,811 | 2,180 | 13,991 | 0.901% | | | |
| MISSOURI | 49,206 | 23% | 11,566 | 0.24 | 11,616 | 250 | - | 23,182 | 4,279 | 27,461 | 1.768% | | | |
| MONTANA | 24,747 | 14% | 3,963 | 0.32 | 7,732 | 480 | - | 11,695 | 2,159 | 13,854 | 0.892% | | | |

ESTIMATES OF THE LSC-ELIGIBLE AGRICULTURAL WORKER POPULATION BY STATE AND NATIONALLY

TOTAL NUMBER NATIONALLY AND STATE NUMBER AND PERCENTAGE SHARE

| A | B | C | | D | E | F | G | H | I | J | K | L |
|----------------|-------------------------|----------------------------|----------------------------------------|--------------------|------------|----------------|---------------------------------------------------|--------------------------------------------------------------------|---------------------------------------------------|---------------------------------------------------------|------------------|-----------------|
| | | LSC Eligible Workers | Percentage (%) of LSC-eligible Workers | | | | | | | | | |
| State | Total Number of Workers | Total LSC Eligible Workers | Average Number per Worker | Total LSC Eligible | H-2A | H-2B Forestry | Total LSC-Eligible - Current Workers & Dependents | LSC-Eligible Retirees / Temporarily Out of Work Force & Dependents | Total LSC-Eligible Agricultural Worker Population | State Percentage (%) Share of total Eligible Population | | |
| NEBRASKA | 56,342 | 13,239 | 0.24 | 13,302 | 281 | - | 26,541 | 4,899 | 31,440 | 2.024% | | |
| NEVADA | 8,262 | 2,822 | 0.32 | 2,024 | 1,910 | - | 4,846 | 894 | 5,740 | 0.370% | | |
| NEW HAMPSHIRE | 6,736 | 1,288 | 0.3 | 1,958 | 153 | - | 3,246 | 599 | 3,845 | 0.248% | | |
| NEW JERSEY | 19,141 | 3,896 | 0.15 | 2,864 | 545 | - | 6,760 | 1,248 | 8,008 | 0.516% | | |
| NEW MEXICO | 17,206 | 5,489 | 0.65 | 11,026 | 226 | - | 16,515 | 3,049 | 19,564 | 1.260% | | |
| NEW YORK | 64,623 | 14,146 | 0.3 | 18,139 | 3,632 | - | 32,284 | 5,960 | 38,244 | 2.463% | | |
| NORTH CAROLINA | 93,905 | 27,474 | 0.19 | 16,205 | 10,498 | 91 | 43,679 | 8,062 | 51,741 | 3.332% | | |
| NORTH DAKOTA | 29,303 | 7,496 | 0.24 | 6,730 | 940 | - | 14,226 | 2,625 | 16,851 | 1.085% | | |
| OHIO | 56,497 | 13,651 | 0.24 | 13,222 | 770 | - | 26,873 | 4,961 | 31,834 | 2.050% | | |
| OKLAHOMA | 24,801 | 5,148 | 0.33 | 7,999 | 422 | 84 | 13,147 | 2,427 | 15,574 | 1.003% | | |
| OREGON | 105,096 | 10,056 | 0.39 | 40,743 | 88 | 552 | 50,799 | 9,377 | 60,176 | 3.875% | | |
| PENNSYLVANIA | 50,004 | 9,465 | 0.15 | 7,617 | 554 | - | 17,081 | 3,153 | 20,234 | 1.303% | | |
| PUERTO RICO | 13,316 | 1,864 | 0.31 | 4,128 | - | - | 5,992 | 1,106 | 7,098 | 0.457% | | |
| RHODE ISLAND | 1,771 | 309 | 0.3 | 525 | 4 | - | 834 | 154 | 988 | 0.064% | | |
| SOUTH CAROLINA | 30,175 | 5,309 | 0.23 | 6,127 | 2,924 | 413 | 11,436 | 2,111 | 13,547 | 0.872% | | |
| SOUTH DAKOTA | 27,361 | 6,800 | 0.24 | 6,345 | 619 | - | 13,145 | 2,427 | 15,572 | 1.003% | | |
| TENNESSEE | 34,520 | 8,879 | 0.19 | 6,255 | 2,250 | 112 | 15,134 | 2,794 | 17,928 | 1.154% | | |
| TEXAS | 133,995 | 27,339 | 0.33 | 43,410 | 2,078 | 66 | 70,749 | 13,060 | 83,809 | 5.397% | | |
| UTAH | 16,935 | 3,743 | 0.32 | 4,908 | 1,532 | - | 8,651 | 1,596 | 10,247 | 0.660% | | |
| VERMONT | 8,297 | 1,776 | 0.3 | 2,343 | 418 | - | 4,119 | 761 | 4,880 | 0.314% | | |
| VIRGINIA | 41,419 | 10,149 | 0.19 | 7,628 | 2,161 | 40 | 17,777 | 3,281 | 21,058 | 1.356% | | |
| WASHINGTON | 135,362 | 16,544 | 0.39 | 50,936 | 4,443 | 329 | 67,481 | 12,455 | 79,936 | 5.147% | | |
| WEST VIRGINIA | 7,857 | 1,699 | 0.19 | 1,502 | 134 | - | 3,201 | 591 | 3,792 | 0.244% | | |
| WISCONSIN | 84,164 | 10,995 | 0.33 | 27,400 | 171 | 199 | 38,395 | 7,087 | 45,482 | 2.929% | | |
| WYOMING | 11,540 | 1,930 | 0.32 | 3,575 | 319 | - | 5,505 | 1,016 | 6,521 | 0.420% | | |
| US | 2,785,785 | N/A | N/A | 486,143 | N/A | 824,863 | 85,248 | 7,522 | 1,311,008 | 241,995 | 1,553,003 | 100.000% |

APPENDIX B

“Funding of Legal Assistance for Migratory and Other Farmworkers,”
memorandum from Ronald S. Flagg, Gen. Counsel; Mark F. Freedman, Senior
Assistant Gen. Counsel; and Bristow Hardin, Program Analyst, Office of Program
Performance to the LSC Board Operations and Regulations Committee
(Oct. 8, 2013)



MEMORANDUM

TO: Operations and Regulations Committee

FROM: Ronald S. Flagg, General Counsel
Mark F. Freedman, Senior Assistant General Counsel
Bristow Hardin, Program Analyst, OPP

CC: Janet Labella, Tillie Lacayo

DATE: October 8, 2013

SUBJECT: Funding of Legal Assistance for Migratory and Other Farmworkers

OVERVIEW

LSC has provided grants to serve migratory and other farmworkers (generally referred to as “migrant grants”) with appropriated funds since the 1970’s. Since 1996, funds appropriated for “basic field programs” have been allocated to each state, territory and the District of Columbia via a per capita funding formula based on data from the U.S. Census Bureau regarding the location of the poverty population. The entire state, territory, or District of Columbia is a single “geographic area” within which LSC may designate one or more “service areas” for grants. Within most of these geographic areas, LSC distributes those funds through general-purpose basic field grants and through separate migrant grants.¹ The amount of the migrant grant in each geographic area is based on the migrant population of that area, which is deducted from the total poverty population for that area for purposes of calculating the general-purpose basic field grant.

The basis on which LSC allocates migrant grants raises at least two fundamental issues. First, the data used to estimate the migrant population of each geographic area are outdated. There is no U.S. Census Bureau estimate of migrant population, and the migrant population figures LSC uses to compute migrant grants are based on historical estimates dating back to 1990. Second, there is a mismatch between the population served by so-called “migrant

¹ There are migrant grants covering 43 states and Puerto Rico. There is no more than one migrant service area in a state. Services to migrants in six New England states (CT, MA, ME, NH, RI, and VT) are provided by Pine Tree Legal Assistance through a single service area (under a single migrant grant). Grants are provided to grantees for migrant services in 18 states with a single basic field grantee, and 20 states with multiple basic field service areas. FY13 grant amounts for service areas in individual states range from \$25,406 (LA) to \$2,435,542 (CA).

grants” – generally migrants *and* other farmworkers – and the population used to determine the distribution and allocation of migrant grants – solely migrant workers.

This memorandum provides background information regarding the funding of grants for legal assistance to migrants and farmworkers and these two issues. The memorandum covers the following topics:

- Historical and Legal Context of LSC’s Funding of Legal Assistance for Migratory and Other Farmworkers
- LSC Funding for Legal Services for Migratory and Other Farmworkers Since 1974
- Populations Currently Served by LSC Migrant Grantees and the Scope of Those Services
- NLADA 2013 Analysis of the Population of Agricultural Workers
- Migrant Census and Eligibility Issues
- Next Steps

I. HISTORICAL AND LEGAL CONTEXT OF LSC’S FUNDING OF LEGAL ASSISTANCE FOR MIGRATORY AND OTHER FARMWORKERS

LSC has provided targeted funding for migrant legal services since LSC’s establishment.² Although this has been termed “migrant funding,” migrant programs have served migrants *and* other farmworkers throughout this period and LSC has found on several occasions that this is the most effective and efficient way to address the legal needs of these clients.

A. Legal Authority for Sub-Population Grants

The LSC Act provides broad general authority for LSC grantmaking for “the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance.” 42 U.S.C. § 2996b(a). Section 1006(a)(1) of the LSC Act authorizes LSC “(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients . . . and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions [of the LSC Act.]” 42 U.S.C. § 2996e(a)(1)(A) and (B). Starting in 1996, Congress has appropriated almost all grant funds (with the exception of Technology Initiative Grants, which began in 2000) in a single broad category -- basic field programs providing direct legal services. The LSC Act does not further define the nature of those grants and leaves to LSC the discretion to determine what types of grants to provide to “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.” 42 U.S.C. § 2996f(a)(3).

In the 1977 reauthorization of the LSC Act, Congress recognized the needs of special populations by requiring LSC to conduct a study of the legal needs of migrants and seasonal

² This funding built on and expanded the legal assistance previously funded by the Legal Services Program of the Office of Economic Opportunity (OEO) and the Department of Labor.

farmworkers and other specific subpopulations and to implement methods of addressing those needs. Pub. L. 95-222, § 13, adding § 1007(h) of the LSC Act, codified at 42 U.S.C. § 2996f(h). Section 1007(h) of the LSC Act provides:

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.

LSC's Section 1007(h) Study, issued in 1979, concluded that specialized legal expertise and knowledge were needed to address the distinctive "unmet special legal problems" that migrants and seasonal farmworkers shared because of their status as farmworkers.³ The Section 1007(h) Study also discussed issues still pertinent to the funding of migrant grants today, most notably:⁴

- Funding for migrant legal services was based on the migrant population, although migrant programs assisted farmworkers in addition to migrants;
- Based on the funding allocation, basic field programs had the responsibility to represent farmworkers who were not migrants, but they lacked the expertise to do so on issues related to clients' status as farmworkers; thus, it was appropriate for migrant programs to provide services to farmworkers other than migrants; and,
- Basic field programs had the legal expertise to serve migrants and other farmworkers on legal issues unrelated to their status as migrants or farmworkers, but other factors (*e.g.*, language, location, interrelationships between status and other legal issues) had limited their ability to do this effectively. In this regard, the study reported that "[c]reating a duplicate delivery system for farmworkers -- one for [farmworker] status-related problems and another for other problems -- may often be impractical, if not impossible. . . ."

³ Legal Services Corporation, *Special Legal Problems and Problems of Access to Legal Services of Veterans, Migrant and Seasonal Farm Workers, Native Americans, People, with Limited English-Speaking Ability, and Individuals in Sparsely Populated Areas*, 1979 ("Section 1007(h) Study"). The shared legal needs of migrants and seasonal farmworkers and the need for specialized legal assistance are addressed on pp. 40-42 and pp. 313-315. The study's full analysis of these issues is set forth in Chapter I, Section III, D, and Chapter V.

⁴ The information and quotations below are from the 1007(h) Study at 38-40, 310-312.

The LSC regulation on competition for direct-delivery grants, 45 C.F.R. Part 1634, promulgated in 1996, implements LSC's authority to award grants to serve the specific legal needs of subpopulations:

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.

45 C.F.R. § 1634.3(b). The regulation defines "subpopulation of eligible clients" to include

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.

45 C.F.R. § 1634.2(d).

B. June 2000 Letter from LSC President John McKay to LSC Grantee Directors

A letter from LSC President John McKay (McKay letter) to directors of LSC grantees dated June 19, 2000, provided what is perhaps the most elaborate statement by LSC management about the scope and focus of migrant legal services grantees' work. The letter emphasized that the "factors enumerated in the 1007(h) Study are as true as they were 22 years ago."

To address eligible clients' legal needs, the letter stated that LSC expected migrant legal services projects to "primarily represent those clients in need of legal assistance from a specialized migrant unit because (1) they are faced with barriers which otherwise restrict clients' access to legal assistance and (2) they have specialized legal needs which arise from their work in agriculture and status as a farmworker." The letter elaborated in two ways regarding the categories of eligible clients satisfying these criteria. First, the letter made clear that service provided by migrant programs should cover agricultural workers beyond migratory workers. Second, the letter expanded the universe of agricultural workers that migrant programs should serve, stating that migrant program "should treat some types of work, not typically thought of as "farm work" as farm work or agricultural employment." The additional types of work were forestry, nursery work, cotton ginning, mushroom growing, seed conditioning, pine bough tying, aloe vera processing, work on sod farms, work in meat and poultry processing plants, livestock and feed lot work, shepherding, work on egg farms and tobacco housing/stripping warehousing. Finally, the letter advised migrant grantees to focus their resources on representation related to the status of migratory and agricultural workers as migratory and agricultural workers (*e.g.*, employment matters), leaving to basic field programs

representation of such workers on issues not related to their status as migratory and agricultural workers.

The letter also said that basic field programs (with internal migrant farmworker projects), not the migrant grantees, should represent farmworkers on issues not related to farmworker status while permitting the migrant grantees to represent migrant and other farmworkers on farmworker status-related issues.

C. Federal Laws and Federal Programs Targeting Migratory and Other Farmworkers

LSC's targeting of legal services to a broader category of agricultural workers going beyond migratory workers, is consistent with the approach taken by the federal government. The provisions of major laws applicable to the legal needs of agricultural workers apply to a broader category agricultural workers that includes, but is not limited to, migratory workers. These laws are:

- The Migrant and Seasonal Agricultural Worker Protection Act
- Field Sanitation Standards under the Occupational Safety and Health Act
- Fair Labor Standards Act

Likewise, major programs administered and funded by federal agencies recognize the similar needs of farmworkers and migrants and provide services to *all* farmworkers (or agricultural workers), including the following programs:

- Department of Education, Migrant and Seasonal Farmworkers Program (vocational rehabilitation)
- Department of Health and Human Services, Health Resources and Services Administration, Migrant Health Centers
- Department of Health and Human Services, Administration of Children and Families, Office of Head Start, Migrant and Seasonal Head Start
- Department of Labor, Employment and Training Administration, National Farmworker Jobs Program
- Department of Labor, Employment and Training Administration, Migrant and Seasonal Farmworkers Monitor Advocate System⁵

II. LSC FUNDING FOR MIGRATORY AND OTHER FARMWORKERS SINCE 1974

A. Migrant Funding Prior to FY1996

LSC has provided funding for migrant legal services since LSC's establishment, building on the legal assistance previously funded by the Legal Services Program of OEO and the Department of Labor. LSC funding allocations to migrant grants from the early 1980s through

⁵ Two Department of Education programs focus exclusively on the needs of migrants and their dependents, Migrant Education Even Start and Migrant Education Program.

FY96, reflected policies implemented by LSC during the 1979-1981 period, which immediately followed the issuance of the Section 1007(h) Study. Starting in 1986, Congress set specific funding amounts (“lines”) for migrant legal services and several other funding categories or entities (*e.g.*, national and state support, Native American grantees, the National Clearinghouse) in LSC’s annual appropriation. These funding lines specified the *minimum* amounts of funding that LSC had to provide grantees for the identified purposes. The FY93 and FY94 appropriations laws specified the use of the Migrant Health Atlas⁶ and the Larson-Plascencia study⁷ to govern the distribution of funding among migrant programs. (The total migrant population was derived from the Migrant Atlas; the distribution among states was based on the Larson-Plascencia enumeration.)

Because there were only very small differences in the relative shares of LSC funding Congress allocated to migrant, basic field and Native American service areas throughout the FY82-FY95 period,⁸ it appears that Congress did not intend to change the migrant funding policy or allocations that LSC had set in 1981.

B. Migrant Funding Since FY1996

The FY96 LSC appropriation eliminated all “lines” for special legal services except for Native American funding. LSC then implemented the policy that has guided migrant funding until today. This policy’s major elements include:

- Funding for migrant legal services is based on the estimated size of the migrant poverty population in each geographic area. The funding for this population is “backed out” of the funding for the rest of a state’s poverty population.
- The 1990 Migrant Health Atlas figure used to estimate the total migrant population was 1,661,875.⁹ LSC determined in 1975 that 70% of this population – 1,116,195 – had incomes below the poverty line.¹⁰

⁶ U.S. Department of Health and Human Services, Public Health Service, Health Resources and Services Administration, Bureau of Health Care Delivery and Assistance, Migrant Health Program, *An Atlas of State Profiles Which Estimate Number of Migrant and Seasonal Farmworkers and Members of Their Families*.

⁷ Larson, Alice and Plascencia, Luis, *Migrant Enumeration Project 1993*, Thomas Rivera Center.

⁸ This is illustrated by the minimal differences in the relative shares of LSC funding that were allocated among migrant, basic field and Native American service areas between FY82 and FY95. Data for the following years are illustrative: FY82, when the 1979-1981 policies were first reflected in funding levels; FY85, the year before Congress began setting funding floors; FY86, the first year after floors were set; FY94, the last year the Migrant Health Atlas-Larson-Plascencia numbers were used to specify allocation of migrant funding issues; and FY95, the last year funding “lines” were set for migrant and other funding categories. The respective funding levels for migrant grants in those years, expressed as a percentage of the sum of migrant, basic field and Native American grant funds were: 3.58%, 3.60%, 3.40%, 3.50%, and 3.46%. The small variances in these numbers may have resulted from data inconsistencies (*e.g.*, the tables from which these data are drawn are from different data sets), shifts in the amounts going to categories other than migrant, basic field or Native Americans, rounding, etc.

⁹ *Migrant Health Atlas*, Table II.

- The distribution of the total migrant population among states is based on the Larson-Plascencia data.
- The Migrant Health Atlas and Larson-Plascencia estimates were used in the FY96 funding policy because they had the imprimatur of Congress; as noted above, the FY93 and FY94 LSC appropriations had required their use for allocating increases in migrant funding for those years.

In December 1995 and March 1996, LSC President Alex Forger notified Congress of the migrant funding policy set forth above that LSC intended to implement for FY96.¹¹ Both communications requested that Congress notify LSC if it had objections to the migrant funding policy LSC intended to implement. Congress did not notify LSC of any such concerns. LSC's final FY96 appropriation enacted after the December 1995 communication provided no language pertaining to migrant funding.

LSC's current funding for migrant services assumes that changes in the total size of the migrant population since the implementation of the FY96 policy (then based on 1990 data) have closely mirrored the changes in the size of the total US poverty population. (The increase in the total poverty population served by LSC since the 1990 Census is 40.2%; the increase in the estimated size of the migrant population is 39.3%.) Based on this assumption, the current migrant population for LSC funding purposes is 1,619,982, which is 3.39% of the total poverty population served by LSC.

Available data indicate that the estimates of the size and distribution of the migrant population currently used to determine the size and allocation of migrant grants likely are not accurate, not surprising given that they are based on data sets that are more than 20 years old. Although we do not have a precise estimate of the current size of the migrant population (including dependents) below the poverty line, Department of Labor data suggest that the number may be no more than 1 million.¹² If the migrant poverty population is 1 million, and that figure were used to calculate LSC migrant grants, the migrant poverty population's share of the LSC poverty population – and thus its share of LSC basic field funding – would fall from 3.39% to 2.09%.

¹⁰ We are not able to identify the basis for this 70% poverty population calculation. Based on the 1.116 million poverty population figure, per-person funding for migrants and basic field clients was the same: \$7.58, suggesting that the poverty population calculation was derived by equalizing the per-person funding for migrants and basic field grants.

¹¹ Letter dated December 20, 1995, from Alex Forger, LSC President, to Rep. Harold Rogers, Chairman, and Rep. Alan B. Mollohan, Ranking Minority Member, of the House Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, and Sen. Judd Gregg, Chairman, and Sen. Ernest F. Hollings, Ranking Minority Member, of the Senate Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, Committee on Appropriations, United States Senate. Letter dated March 22, 1996, from Alex Forger, LSC President, to Rep. Harold Rogers and Sen. Judd Gregg.

¹² Staff of the Department of Labor, Employment and Training Administration will soon provide the most recent numbers, which will be based on data from the National Agricultural Workers Survey and other sources.

III. POPULATIONS CURRENTLY SERVED BY LSC MIGRANT GRANTEES AND THE SCOPE OF THOSE SERVICES

As described above, LSC migrant grantees have not limited their services to clients who meet the Migrant Health Atlas definition of the term “migrants”; most provide legal assistance to the larger universe of agricultural workers identified in the McKay letter.¹³

Consistent with the McKay letter, LSC expects migrant grantees to focus their services on issues related to migrants’ and agricultural workers’ *status* as migrants and agricultural workers rather than all of their legal needs. Case Service Reports indicate that the services of migrant programs are in fact targeted on these issues. For example, of cases closed by migrant grantees in 2012, 54.3% and 13.6% were in case categories typically related to status as migratory or agricultural workers -- employment (*e.g.*, job discrimination, wage claims, other agricultural worker issues) and individual rights (*e.g.*, immigration/naturalization, human trafficking), respectively. By contrast, the respective numbers for basic field grantees (non-PAI) in these categories were much lower -- 2.5% and 1.8%.

IV. NLADA 2013 ANALYSIS OF THE POPULATION OF AGRICULTURAL WORKERS

A recent analysis funded by the National Legal Aid and Defender Association (NLADA) provided extensive data regarding the population of “agricultural workers” – not just “migrant” or “migrant and seasonal farmworkers.” The NLADA study does not provide separate estimates for the size of the migrant population and other agricultural workers, nor does it provide poverty estimates for the population of agricultural workers. It also includes livestock workers, while the farmworkers included in the LSC estimate of the migrant population is limited to crop workers.

Because of the broader universe it uses, the NLADA study estimates that the agricultural worker population is far larger than the migrant poverty population of 1,116,195, which is used in LSC’s funding formula. The NLADA estimate of the total agricultural worker population

¹³ This service focus on agricultural workers, not just migratory workers, is consistent with the findings of the Section 1007(h) Study and other research regarding the similarity of the legal needs of migrants and other farmworkers. In addition, attempting to distinguish between migrants and non-migrants is made difficult and impractical by the following factors: migratory and non-migratory farmworkers may be part of the same family; a client may have migrated in a prior period but is not migrating at the time services are provided (or vice-versa); and migratory and other farmworkers may require services for the same issue or case. Further, there is no generally accepted definition of “migrant.” The Section 1007(h) Study, the Migrant Atlas, and the Larson-Plascencia study each used different definitions of “migrants”. In addition, different definitions of migrants or farmworkers are used in the targeting of resources of federal programs serving migratory and other farmworkers.

(including dependents) is 4,691,713. Of this number, 2,082,370 individuals are agricultural workers and 2,609,343 are their dependents (of whom 1,642,919 are children).¹⁴

V. MIGRANT CENSUS AND ELIGIBILITY ISSUES

The distribution of LSC's basic field funding does not consider the immigration status of the poverty population across the country. The American Community Survey poverty estimates provide no reliable data regarding immigration status. The Department of Labor, Employment and Training Administration's National Agricultural Workers Survey (NAWS) provides reliable information about the authorization status and locations of farmworkers. Current estimates are that approximately 50% of agricultural workers are unauthorized workers.¹⁵ Any adjustment of farmworker population estimates for documentation status related to the eligibility criteria of section 1626 of the LSC regulations would be complicated by at least one factor. A significant number of dependents of unauthorized farmworkers are LSC-eligible, either as U.S. citizens or eligible aliens. For example, of the 5.5 million children of unauthorized immigrants, 4.5 million (82%) are U.S. citizens.¹⁶

VI. PROPOSED NEXT STEPS

As indicated above, the basis on which LSC allocates migrant grants raises at least two fundamental issues: (1) the data used to estimate the migrant population of each geographic area are outdated, and (2) there is a mismatch between the population served by migrant grants – generally migrants *and* other agricultural workers – and the population used to determine the distribution and allocation of migrant grants – solely migrant workers. We propose that LSC Management investigate these issues further and prepare and present to the Committee in January or April a set of options to address them.

¹⁴ The 1990 Atlas estimate of the *total* migrant and seasonal farmworker population (*not* those below the poverty line) was 4,171,419.

¹⁵ Carroll, Daniel, Annie Georges and Russell Saltz, "Changing Characteristics of U.S. Farm Workers: 21 Years of Findings from the National Agricultural Workers Survey," PowerPoint Presentation for the Immigration Reform and Agriculture Conference: Implications for Farmers, Farm Workers, and Communities, University of California, D.C. Campus, 12 May 2011, p.20.

¹⁶ Pew Hispanic Center, Pew Research Center, Unauthorized Immigrant Population: National and State Trends, 2010, February 1, 2011.

APPENDIX C

List of Works Cited

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APPENDIX D

List of Persons Interviewed

LSC AGRICULTURAL WORKER POPULATION ESTIMATE UPDATE
LSC MANAGEMENT REPORT TO LSC BOARD OF DIRECTORS
January 2015

APPENDIX D
LIST OF PERSONS INTERVIEWED

***Note:** Interviewees' affiliation listed for information purposes only.*

Thomas A. Arcury, Ph.D., Professor, Wake Forest University; Director, Wake Forest University Center for Worker Health, interviewed on April 28, 2014

Peter Benson, Ph.D., Professor, Washington University, St. Louis, interviewed on May 15, 2014

Cesar Britos, LSC Consultant, Board member, Pine Tree Legal Assistance (ME); Assistant Vice President and Senior Counsel, Unum Group, interviewed on April 21, 2014

Daniel Carroll, U.S. Department of Labor, Employment & Training Administration, Office of Policy Development and Research, multiple interviews

Joan Flocks, J.D., M.A., Professor, University of Florida Levin College of Law; Director, Social Policy Division, Center for Governmental Responsibility, University of Florida, interviewed on May 14, 2014

Susan Gabbard, Ph.D., Senior Vice President, Aguirre Division, JBS International, Inc., multiple interviews

Bruce Goldstein, President, Farmwork Justice, multiple interviews

David Griffith, Ph.D., Professor, East Carolina University; Interim Director, Institute for Coastal Science and Policy, interviewed on April 14, 2014

Cindy Hahamovitch, Ph.D., Professor, College of William and Mary University, interviewed on May 14, 2014

Ronald Javor, Deputy Director / Staff Counsel (1977-2008), California Department of Housing and Community Development, interviewed on June 5, 2016

Ed Kissam, Ph.D., Trustee, WKF Giving Fund; independent researcher, projects include farmworker studies for the Department of Labor and Commission on Agricultural Workers and 4-year study of immigrant integration into rural U.S. communities, multiple interviews

Ruben Martinez, Director, Julian Samora Research Institute, Michigan State University, interviewed on May 6, 2014

Nancy J. Leppink, former Assistant Commissioner for Enforcement, Minnesota Department of Commerce; former Acting Administrator, U.S. Department of Labor, Wage and Hour Division, interviewed on April 14, 2014

Phil Martin, Ph.D., Professor , University of California, Davis; Chair, University of California Comparative Immigration & Integration Program, interviewed on June 3, 2014

Max Pfeffer, Ph.D., Professor and Senior Associate Dean, Cornell University College of Agriculture and Life Sciences, interviewed on June 12, 2014

Fritz Roka, Ph.D., Professor, University of Florida, interviewed on March 20, 2014

Donald Saunders, Vice President, Civil Legal Services, National Legal Aid and Defender Association, multiple interviews

Gregory Schell, Managing Attorney, Florida Legal Services, Inc., Migrant Farmworker Justice Project, multiple interviews

Marc Schenker, MD, MPH, Professor, Department of Public Health Sciences, University of California, Davis, Center for Occupational and Environmental Health; Director Western Center for Agricultural Health and Safety, interviewed on May 14, 2014

Cynthia Schneider, former deputy director, LSC Office of Program Performance, multiple interviews

Rebecca Smith, Deputy Director, National Employment Law Project

John Trasviña, Dean, University of San Francisco School of Law; former Asst. Secretary, U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity; former Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, interviewed on May 20, 2014

Don Villarejo, Ph.D., Founder and Director Emeritus, California Institute for Rural Studies, interviewed on May 20, 2014

Matthew Wesaw, Director, Michigan Department of Civil Rights, interviewed on May 16, 2014

Ellen Widess, former Chief, California Occupational Safety and Health Administration, former Director, Texas Department of Agriculture, Pesticide Program, interviewed on April 19, 2014

APPENDIX E

LSC Agricultural Worker Population Survey – Migrant Grantee Survey Instrument

Agricultural Worker Population -- Migrant Grantees Survey

Introduction

LSC is reviewing population data regarding migrants and other agricultural workers and their dependents (agricultural worker population). These data provide the basis for the allocation of LSC grant funds for legal assistance to this population.

This survey seeks your perspective about:

1. The legal needs of the agricultural worker population;
2. The extent to which specialized expertise and delivery approaches, if any, are needed to address the legal needs of the agricultural worker population; and,
3. The categories of agricultural workers with legal needs that require such expertise and delivery approaches.

"Agricultural workers" can include:

1. Migrant and seasonal crop workers;
2. Fruit and vegetable packing and processing workers;
3. Livestock workers (e.g., dairy, eggs, poultry, beef, hogs);
4. Nursery and greenhouse workers;
5. Workers in forest nurseries or gathering forest products;
6. Aquaculture workers;
7. Agriculture support workers (e.g., planting, grading, cotton ginning); and,
8. Others engaged in agriculture related work.

Throughout the survey:

1. "Agriculture worker population" and "agricultural workers" refer to agricultural workers and their dependents; and,
2. "Specialized legal expertise, capacities and delivery approaches" refer to expertise with regard to the most significant legal issues and laws affecting the agricultural worker population and capacities and delivery approaches tailored to meet the particular needs of that population.

The survey solicits your perspective through a combination of multiple-choice and open-ended questions. The survey should take about 30-45 minutes to complete. The time it takes you will depend on the length and detail of your responses.

You may exit and re-enter the survey to add to or edit your responses. Also, your responses will be automatically saved when you exit the survey.

We ask that you complete this survey no later than close of business, June 9, 2014.

Thank you for your assistance,
Jim Sandman
LSC President

If you have questions or have trouble accessing the survey, please contact Bristow Hardin, LSC Program Analyst, 202-295-1553, hardinb@lsc.gov.

Agricultural Worker Population -- Migrant Grantees Survey

Service Delivery to the Agricultural Worker Population

The questions in this section solicit information about the agricultural worker population in your service area and how your program provides services to that population.

*** 1. Please select the appropriate responses to indicate:**

(1) Whether your program provides the identified services or employs the identified delivery techniques to serve the agricultural worker population; and,

(2) Whether these services and/or techniques are necessary to serve that population most effectively and efficiently.

(The answer options are "Yes," "No," and "Don't Know.")

| | Provide Services / Employ Techniques?? | Necessary for Effective/Efficient Service? |
|-----------------------------------------------------------------------------|----------------------------------------|--------------------------------------------|
| Outreach at labor camps and other places workers live | <input type="text"/> | <input type="text"/> |
| Outreach to locations other than where workers work or live | <input type="text"/> | <input type="text"/> |
| Community education | <input type="text"/> | <input type="text"/> |
| Work with community partners / agencies to reach and serve workers | <input type="text"/> | <input type="text"/> |
| Work with enforcement agencies | <input type="text"/> | <input type="text"/> |
| Special intake procedures | <input type="text"/> | <input type="text"/> |
| Use of technology (e.g. special toll-free lines, cell/text phones, laptops) | <input type="text"/> | <input type="text"/> |
| Legal advice and limited services | <input type="text"/> | <input type="text"/> |
| Extended services (including litigation) | <input type="text"/> | <input type="text"/> |
| Other (please identify below) | <input type="text"/> | <input type="text"/> |

Other (identify):

Agricultural Worker Population -- Migrant Grantees Survey

2. Please provide any comments you have about your responses in question 1.



Agricultural Worker Population -- Migrant Grantees Survey

Agriculture Worker Population ~ Characteristics and Special Legal Needs

***3. Please check the appropriate boxes to indicate whether the identified factors create legal needs that require specialized legal expertise and other capacities or delivery models to serve agricultural workers effectively and efficiently.**

| | Yes | No | Don't know |
|------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|
| Lack of safe / affordable housing | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Insufficient access to health care | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Insufficient access to education | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Insufficient access to transportation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Geographic mobility | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Geographic isolation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Cultural / social isolation | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Limited English Proficiency | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Low educational attainment | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Immigration status | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Sex discrimination / sexual harassment | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Discrimination based on race, ethnicity or national origin | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Workplace safety and health | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Job characteristics, e.g., dangerous, payment systems, dependence on grower / labor contractor | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Retaliation for filing complaints, seeking legal assistance, etc. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Human trafficking | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Unemployment / under-employment | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Taxes | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other (please identify below) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Other factors:

Agricultural Worker Population -- Migrant Grantees Survey

4. Please provide any comments you have about your responses in question 3.



Agricultural Worker Population -- Migrant Grantees Survey

Agricultural Worker Population ~ Legal Needs

***5. Please select the appropriate responses to identify:**

(1) Whether the agricultural worker population in your service area encounters problems in the identified substantive issue areas ("Population encounters problem"); and,

(2) Whether specialized legal expertise and delivery approaches are necessary to effectively and efficiently assist the affected agricultural workers in addressing the problem ("Specialized expertise / delivery necessary").

(The answer options are "Yes," "No," and "Don't Know.")

| | Population encounters problem | Specialized expertise / delivery approach necessary |
|------------------------------------------------------------------------------------------------------|-------------------------------|-----------------------------------------------------|
| Wage claims and other Fair Labor Standards Act (FLSA)-related issues | <input type="text"/> | <input type="text"/> |
| Migrant and Seasonal Agricultural Workers Protection Act (AWPA)-related issues | <input type="text"/> | <input type="text"/> |
| Occupational Safety and Health Act (OSHA)-related issues | <input type="text"/> | <input type="text"/> |
| Environmental Protection Agency enforcement-related issues (Worker Protection Standard / pesticides) | <input type="text"/> | <input type="text"/> |
| Child labor | <input type="text"/> | <input type="text"/> |
| Trafficking | <input type="text"/> | <input type="text"/> |
| Other employment related (e.g., worker's compensation) | <input type="text"/> | <input type="text"/> |
| Civil rights (e.g., sexual harassment, employment discrimination) | <input type="text"/> | <input type="text"/> |
| Unemployment Insurance (UI) | <input type="text"/> | <input type="text"/> |
| Public benefits (other than UI) | <input type="text"/> | <input type="text"/> |
| Immigration/naturalization | <input type="text"/> | <input type="text"/> |
| Consumer | <input type="text"/> | <input type="text"/> |
| Education | <input type="text"/> | <input type="text"/> |
| Domestic violence | <input type="text"/> | <input type="text"/> |
| Family (other than domestic violence) | <input type="text"/> | <input type="text"/> |
| Youth (other than child labor) | <input type="text"/> | <input type="text"/> |
| Health (not OSHA-related or EPA-related) | <input type="text"/> | <input type="text"/> |
| Housing (not covered by AWPA) | <input type="text"/> | <input type="text"/> |
| Taxes | <input type="text"/> | <input type="text"/> |
| Other significant problems (identify below) | <input type="text"/> | <input type="text"/> |

Please identify the other(s):

Agricultural Worker Population -- Migrant Grantees Survey

6. Please provide any comments you have about your responses in question 5.

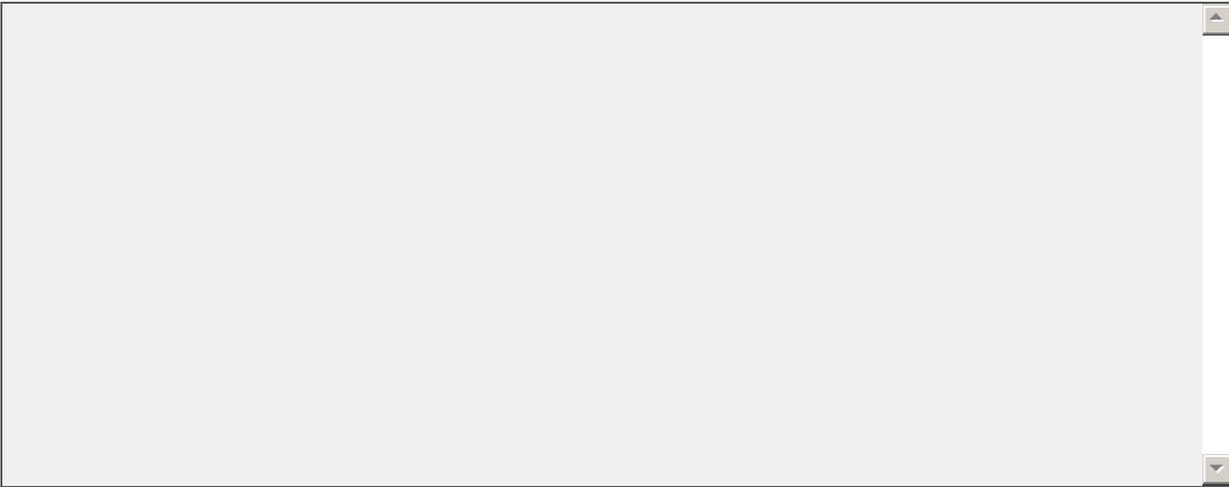


Agricultural Worker Population -- Migrant Grantees Survey

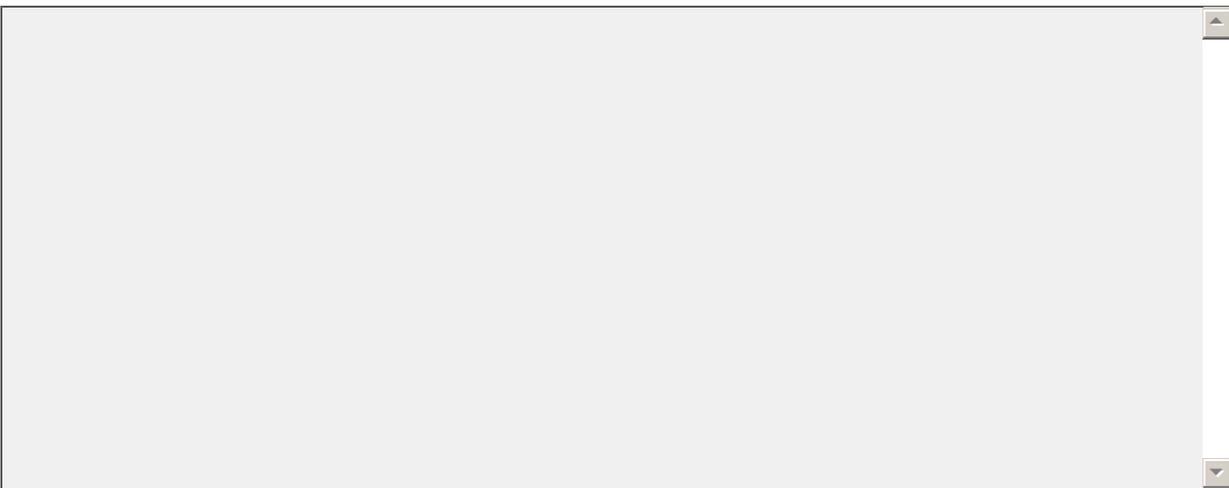
Cases or Other Activities with Significant Client Benefits

The two questions in this section ask you to describe two examples of cases or other activities conducted by your program that provided clients with significant benefits.

***7. Please provide an example of work your program conducted in the last year (or that it is conducting now) that had (or can have) significant benefits for the agricultural workers you serve. As part of your answer, specify the legal issues addressed, the types of representation provided and the benefits provided clients.**



***8. Please provide a second example of work your program conducted in the last year (or that it is conducting now) that had (or can have) significant benefits for the clients you serve. As part of your answer, specify the legal issues addressed, the types of representation provided and the benefits provided clients.**



Agricultural Worker Population -- Migrant Grantees Survey

Expertise and Delivery Models Used to Address the Legal Needs of Agricultur...

*9. Are the following types of specialized expertise / capacities necessary to serve agricultural workers effectively and efficiently?

| | Yes | No | Don't know |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|
| Expertise regarding federal laws with special provisions affecting agricultural workers | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Expertise regarding state laws and policies with special provisions affecting agricultural workers in your service area | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Federal litigation experience | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Bilingual / multilingual staff | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Staff with cultural competence with the agricultural worker population | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Flexible work schedule (e.g., evening outreach, extensive travel) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Access to training in agricultural workers' legal needs, laws and delivery approaches | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Coordination / communication with advocates providing services to agricultural workers in other states | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other (please identify below) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Please describe the "other" specialized expertise or capacities

10. Please explain why you think any of the specialized expertise / capacities identified in the previous question are necessary to provide assistance to agricultural workers effectively and efficiently.

Agricultural Worker Population -- Migrant Grantees Survey

The Legal Needs of Different Categories of Agricultural Workers

11. Please select the appropriate answers to indicate whether workers employed in the specified occupations (and / or their dependents) have legal issues associated with the identified issues. (The answer options are "Yes," "No," and "Don't Know.")

| | Wage and Hour violations | AWPA violations | Unsafe / Unhealthy working conditions | Unsafe / Unhealthy housing conditions | Employer Retaliation | Discrimination | Sexual Harassment / Violence | |
|---------------------------------------------------------------------------------------|--------------------------|----------------------|---------------------------------------|---------------------------------------|----------------------|----------------------|------------------------------|----------------------|
| Migrant and seasonal crop workers | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Livestock workers (e.g., dairy, eggs, poultry, beef, hogs, sheep) | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Nursery and greenhouse workers | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Workers in forest nurseries or gathering forest products | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Fruit and vegetable packing and processing workers; | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Aquaculture workers (i.e., farm raising and production of aquatic animals and plants) | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Agriculture support workers (e.g., cotton ginning, crop planting / grading) | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Others engaged in | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Agricultural Worker Population -- Migrant Grantees Survey

agriculture
related work
(please
identify
below)

Meat and
poultry
slaughtering
and
processing
plant
workers

| | | | | | | | |
|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| <input type="text"/> |
|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|

Please identify other:

12. Please provide any comments you have about your responses in the previous question.

Agricultural Worker Population -- Migrant Grantees Survey

Final Comments

13. Please provide any additional comments you may have about the issues addressed in this survey.



Agricultural Worker Population -- Migrant Grantees Survey

Information for Follow-Up

Please provide the information below in case we would like to follow-up on some of your answers.

14. Contact person and contact information.

Name:

Program name

Title

Email Address:

Phone Number:

Agricultural Worker Population -- Migrant Grantees Survey

Thank You!

Thank you! Your answers will be invaluable to LSC as it analyzes services to the agricultural worker population.

Please click "Done" to submit your answers.

APPENDIX F

LSC Agricultural Worker Population Survey – Basic Field Grantee Survey Instrument

Agricultural Worker Population -- Basic Field Survey

Introduction

LSC is reviewing population data regarding migrants and other agricultural workers and their dependents (agricultural worker population). These data provide the basis for the allocation of LSC grant funds for legal assistance to this population.

This survey seeks your perspective about:

1. The legal needs of the agricultural worker population;
2. The extent to which specialized expertise and delivery approaches, if any, are needed to address the legal needs of the agricultural worker population; and,
3. The categories of agricultural workers with legal needs that require such expertise and delivery approaches.

"Agricultural workers" can include:

1. Migrant and seasonal crop workers;
2. Fruit and vegetable packing and processing workers;
3. Livestock workers (e.g., dairy, eggs, poultry, beef, hogs);
4. Nursery and greenhouse workers;
5. Workers in forest nurseries or gathering forest products;
6. Aquaculture workers;
7. Agriculture support workers (e.g., planting, grading, cotton ginning); and,
8. Others engaged in agriculture related work.

Throughout the survey:

1. "Agriculture worker population" and "agricultural workers" refer to agricultural workers and their dependents; and,
2. "Specialized legal expertise, capacities and delivery approaches" refer to expertise with regard to the most significant legal issues and laws affecting the agricultural worker population and capacities and delivery approaches tailored to meet the particular needs of that population.

The survey solicits your perspective through a combination of multiple-choice and open-ended questions. The survey should take about 20-30 minutes to complete. The time it takes you will depend on the length and detail of your responses.

You may exit and re-enter the survey to add to or edit your responses. Also, your responses will be automatically saved when you exit the survey.

We ask that you complete this survey no later than close of business June 9, 2014.

Thank you for your assistance,
Jim Sandman
LSC President

If you have questions or have trouble accessing the survey, please contact Bristow Hardin, LSC Program Analyst, 202-295-1553, hardinb@lsc.gov.

Agricultural Worker Population -- Basic Field Survey

Assistance to Agricultural Workers in Your Service Area

***1. Are there more than 500 agricultural workers and their dependents in your service area? Use estimates if necessary.**

- Yes
- No
- Don't know

***2. Does your program have Case Management System data, data from other systems, anecdotal data or any other information that enable you to identify whether your program has provided services to agricultural workers in the last year?**

- Yes
- No

Agricultural Worker Population -- Basic Field Survey

***3. Has your program provided assistance to agricultural workers in your service area in the last year?**

Yes

No

Agricultural Worker Population -- Basic Field Survey

Services Provided to Agricultural Workers

***4. Please select the appropriate box to estimate the percentage of your program's cases involving the representation of agricultural workers.**

- Less than 10%
- 10% or more
- Don't know

***5. Please check the appropriate boxes to indicate whether your program has provided assistance to agricultural workers in the last year on the following issues.**

| | Yes | No | Don't Know |
|------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|
| Wage claims and other Fair Labor Standards Act (FLSA)-related issues | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Migrant and Seasonal Agricultural Workers Protection Act (AWPA)-related issues | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Occupational Safety and Health Act (OSHA)-related issues | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Environmental Protection Agency enforcement-related issues (Worker Protection Standard / pesticides) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Child labor | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Trafficking | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other employment related (e.g., worker's compensation) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Civil rights (e.g., sexual harassment, employment discrimination) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Unemployment Insurance (UI) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Public benefits (other than UI) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Immigration/naturalization | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Consumer | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Education | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Domestic violence | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Family (other than domestic violence) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Youth (other than child labor) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Health (not OSHA-related or EPA-related) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Housing (not covered by AWPA) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Taxes | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other significant problems (identify below) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Please identify "Other"

Agricultural Worker Population -- Basic Field Survey

***6. Please check the appropriate boxes to indicate the types of services that your program provided to agricultural workers in the last year.**

| | Yes, provided service | No, did not provide service | Don't Know |
|---------------------------------------|-----------------------|-----------------------------|-----------------------|
| Outreach and education | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Advice, counsel, other brief services | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Extended service | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

7. Please provide any comments you may have about your responses to questions 4-6.

Agricultural Worker Population -- Basic Field Survey

Services Not Provided to Agricultural Workers

***8. Please select the appropriate box(es) to indicate why your program has not provided services to the agricultural worker population in the last year. (Check all that apply.)**

- Another program serves the agricultural worker population
- Agricultural worker population is very small
- Agricultural workers have not had legal issues that fell within program priorities
- Agricultural workers have not sought program services
- Other

Other (please identify)

9. Please provide any comments you have about your responses in the previous question.

Agricultural Worker Population -- Basic Field Survey

Expertise / Delivery Models Needed to Serve Agricultural Workers Most Effec...

***10. Please select the appropriate responses to indicate whether you think the identified program capacities and delivery approaches are needed to serve agricultural workers effectively and efficiently.**

| | Yes | No | Don't Know |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------|-----------------------|-----------------------|
| Expertise regarding federal laws with special provisions affecting agricultural workers | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Expertise regarding state laws and policies with special provisions affecting agricultural workers in your service area | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Federal litigation experience | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Bilingual / multilingual staff | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Staff with cultural competence with agricultural worker communities | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Access to specialized training re: agricultural worker issues / delivery | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Special intake procedures and policies for agricultural workers | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Outreach at labor camps and other places workers live | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Outreach to locations other than where workers work or live | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Community education | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Work with community partners / agencies to reach and serve workers | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Work with enforcement agencies | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Use of technology (e.g. special toll-free lines, cell/text phones, laptops) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Legal advice and limited services | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Extended services (including litigation) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Coordination / communication with advocates providing services to agricultural workers in other states | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other (please identify below) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Please identify the "other" capacities

11. Please provide any comments you have about your responses to the question above.

Final Comments

12. Please provide any additional comments you may have about the issues addressed in this survey.



Agricultural Worker Population -- Basic Field Survey

Contact Information for Follow-Up

Please provide the information below in case we would like to follow-up on some of your answers.

13. Contact person and contact information.

Name:

Program name

Title

Email Address:

Phone Number:

Agricultural Worker Population -- Basic Field Survey

Thank You!

Thank you! Your answers will be invaluable to LSC as it analyzes services to the agricultural worker population.

Please Click "Done" to submit your answers.

Finance Committee

Agenda

FINANCE COMMITTEE

January 23, 2015

Agenda

OPEN SESSION

1. Approval of agenda
2. Approval of the minutes of the meeting of October 6, 2014
3. Discussion of Committee's evaluations for 2014 and the Committee's goals for 2015
4. Presentation of LSC's Financial Report for FY 2014
5. Presentation of LSC's Financial Report for the first two months of FY 2015
6. Consider and act on LSC's Consolidated Operating Budget or Revised Operating Budget for FY 2015, *Resolution 2015-XXX*
 - David Richardson, Treasurer/Comptroller
7. Discussion of LSC's FY 2016 appropriations request
 - Carol Bergman, Director, Government Relations & Public Affairs
8. Report on the Selection of Accounts and Depositories for LSC Funds
 - David Richardson, Treasurer/Comptroller
9. Public comment
10. Consider and act on other business
11. Consider and act on adjournment of meeting.

**Draft Minutes of the October 6, 2014
Open Session Meeting**

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

Open Session

Monday, October 6, 2014

DRAFT

Committee Chairman Robert J. Grey Jr. convened an open session meeting of the Legal Services Corporation's ("LSC") Finance Committee ("the Committee") at 4:37 p.m. on Monday, October 6, 2014. The meeting was held at the Hilton Albany, 40 Lodge Street, Albany, New York 12207.

The following Committee members were present:

Robert J. Grey Jr., Chairman
Laurie I. Mikva
Martha L. Minow
Father Pius Pietrzyk, O.P.
Robert E. Henley Jr. (Non-Director Member), by Telephone
Alan Tanenbaum (Non-Director Member), by Telephone
John G. Levi, *ex officio*

Other Board Members Present:

Charles N.W. Keckler
Harry J.F. Korrell III
Victor B. Maddox
Julie A. Reiskin
Gloria Valencia-Weber

Also attending were:

| | |
|---------------------|-----------------------------------------------------------------------------------|
| James J. Sandman | President |
| Lynn Jennings | Vice President for Grants Management |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel, and Corporate Secretary |
| David L. Richardson | Comptroller and Treasurer, Office of Financial and Administrative Services (OFAS) |
| Carol Bergman | Director, Office of Government Relations and Public Affairs (GRPA) |
| Wendy Long | Executive Assistant, Office of Government Relations and Public Affairs (GRPA) |
| Jeffrey E. Schanz | Inspector General |

| | |
|--------------------|---------------------------------------------------------------------------------------------------|
| John Seeba | Assistant Inspector for Audit, Office of the Inspector General (OIG) |
| David Maddox | Assistant Inspector General for Management and Evaluation, Office of the Inspector General, (OIG) |
| Laurie Tarantowicz | Assistant Inspector General and Legal Counsel, Office of the Inspector General |
| Lora M. Rath | Director, Office of Compliance and Enforcement, (OCE) |
| Julia Kramer | Program Counsel, Office of Compliance and Enforcement, (OCE), Executive |
| Bernie Brady | LSC Travel Coordinator |
| Herbert S. Garten | Institutional Advancement Committee, Non-Director Member |
| C. Kenneth Perri | Executive Director, Legal Assistance of Western New York |
| Robin C. Murphy | National Legal Aid and Defenders Association (NLADA) |
| Don Saunders | National Legal Aid and Defenders Association (NLADA) |

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

Committee Chairman Grey called the meeting to order.

MOTION

Dean Minow moved to approve the agenda. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Dean Minow moved to approve the minutes of the Committee's meeting of June 27, 2014. Father Pius seconded the motion

VOTE

The motion passed by voice vote.

MOTION

Mr. Levi moved to approve the minutes of the Committee's meeting of July 16, 2014. Father Pius seconded the motion

VOTE

The motion passed by voice vote.

MOTION

Dean Minow moved to approve the minutes of the Committee's meeting of July 21, 2014. Father Pius seconded the motion

VOTE

The motion passed by voice vote.

Mr. Richardson provided a summary on LSC's Financial Reports for the ten-month period ending July 31, 2014. He answered Committee members' questions.

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

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

MOTION

Father Pius moved to recommend the proposed temporary operating budget for fiscal year 2015, and resolution to the Board for approval. Ms. Mikva seconded the motion.

VOTE

The motion passed by voice vote.

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

MOTION

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

VOTE

The Committee meeting adjourned at 5:00 p.m.

2014 Committee Evaluations and 2015 Goals

SUMMARY OF 2014 FINANCE COMMITTEE EVALUATION RESPONSES

Members either strongly agreed or agreed that:

- Committee members understand the goals and purpose of our committee; committee members agree on the goals and purpose of the committee.
- There is alignment between our committee's goals and purposes and the actions taken and/or the decisions made by the committee.
- There is alignment between our committee's goals and purposes and the goals of LSC's Strategic Plan.
- Our committee has responded effectively and appropriately to issues of immediate concern brought before it; our committee has made significant progress on long-term strategic issues related to its goals and purposes.
- Our committee has adequate resources (for example, staff time and expertise) to support its function.
- Our committee meetings are held regularly and with appropriate frequency.
- The length of our committee meetings is appropriate and respectful of the agenda. We consistently use our meeting time well; issues get the time and attention proportionate to their importance.
- We receive the meeting agenda and materials sufficiently in advance of the meeting to allow for appropriate review and preparation.
- Our committee membership represents the talents and skills required to fulfill the goals and purposes of the committee. Our committee members come to meetings prepared and ready to contribute.
- Our committee members treat each other with respect and courtesy.
- As a general rule, when I speak I feel listened to and that my comments are valued.

Mixed responses (4 strongly agreed/3 agreed/1 disagreed) that:

- The minutes of our meetings are accurate and reflect the discussion, next steps and/or action items articulated by the members.

The following are direct quotes:

Members liked:

- The information is well presented. Board members are treated with respect.
- Meetings are well planned and run on schedule.
- The high level of discussion.
- Serves a valid purpose.
- They are informative and to the point.

Ideas for Improvement:

- I would like to see greater coordination with the Audit committee regarding budgeting and financial oversight, including the role of the Inspector General with respect to fiscal oversight and implementation of the recommendations of the Fiscal Oversight Task Force.
- More in depth review and analysis.
- I wish I thought it mattered what budget request we sent to the White House.
- I think it works well and does not need improvement.

Future Focus:

- Where do we want to leave LSC as our own Board's legacy?
- Strategic financial thinking
- We need to review plans for possible funding decreases due to potential decreased funding from Congress.

Financial Report for FY 2014

FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

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

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

DATE: January 13, 2015

SUBJECT: FY 2014 Financial Reports

The financial reports for Fiscal Year (FY) 2014 are attached for your review and discussion. There are four attachments (some with multiple pages) that comprise this report.

Attachment A provides summary information for each element of the COB in two sections.

Attachment B presents Management and Grants Oversight's (MGO) budget and expenditures.

Attachment C shows the MGO Other Operating Expenses by cost centers.

Attachment D provides budget and expenditures for the Office of Inspector General (OIG).

The first section of Attachment A presents information for the Delivery of Legal Assistance, ***Roman numeral I***, and the Herbert S. Garten Loan Repayment Assistance Program (LRAP), ***Roman numeral II***. Expenditures are compared to the annual budget, and the report shows the variances for each budget line. Expenditures from the prior year are also reported, and the variances for the two years are shown in the last column.

- I. There are four elements included in the Delivery of Legal Assistance:
 1. Field Programs budget is \$336,332,991; the grant expenses through this period total \$335,824,344. The grant expenses include Basic Field Programs of \$315,300,435, Native American of \$9,445,647, and Migrant of \$11,078,262. The

remaining funds of \$508,647 are earmarked for Louisiana, for a close-out audit, and for the American Samoa service area.

2. The U.S. Court of Veterans Appeals Funds budget totals \$2,506,752, and expenses are \$2,501,330. There is a variance of \$5,422, which will be used for FY 2015 expenses.
 3. The Grants from Other Funds budget totals \$273,366, and expenses are \$63,266. The remaining \$210,100 is available for other grants.
 4. The Technology Initiatives budget totals \$6,875,828 and compares to net grant expenses of \$6,682,679. The remaining amount of \$193,149 will be used for the support of the FY 2015 competitive awards process.
 5. The Hurricane Sandy Disaster Relief Funds budget totals \$75,959. The full amount remains and will be used to support additional grants for the hurricane area.
 6. The budget line for Pro Bono Innovation has a budget of \$2,500,000, and awards of \$2,375,000, have been made. The remaining funds of \$125,000 will be transferred to MGO to provide funding for the administration of these grants.
- II. The Herbert S. Garten Loan Repayment Assistance Program's budget is \$2,439,193; the loan expenses for the period total \$1,030,774. There is a remaining amount of \$1,408,419, which will be used for future loans.

The second section of Attachment A presents expenditures for MGO, ***Roman numeral III***, and the OIG, ***Roman numeral IV***.

- III. MGO's annual budget totals \$23,329,795. The budget is comprised of the MGO operating budget of \$19,603,400, the MGO Research Initiative of \$200,113, and MGO Contingency Funds totaling \$3,526,282.

The MGO operating budget of \$19,603,400, is compared to actual expenses of \$16,842,847. MGO is under budget by \$2,760,553, or 14.08%, and the encumbrances are \$260,295. The expenditures are \$645,570 more than the same period in 2014.

The MGO Research Initiative budget allocation is \$200,113, and expenses total \$133,491. The variance shows that expenses are under budget by \$66,622. The iScale and Keystone Accountability contract has a balance of \$41,667, which is the amount of the encumbrance.

The MGO Contingency Funds allocation for this period is \$3,526,282, and there are no expenses.

- IV. The OIG's annual budget totals \$5,537,681. The budget consists of the OIG operating budget of \$5,303,700, and Contingency Funds of \$233,981.

The OIG operating budget \$5,303,700, is compared to actual expenses of \$4,736,410. The OIG is under budget by \$567,290, or 10.70%, and the encumbrances are \$46,988. The expenditures are \$98,460 more than in 2014.

The OIG Contingency Funds budget allocation is \$233,981, and there are no expenses against these funds.

Attachment B, page 1, presents comparative budgets and expenditures for MGO by cost center; all cost centers are under budget. Attachment B, page 2, shows the budgets and expenditures by budget category for the MGO operating budget. The variances show that we are under budget in each category.

The largest variance under budget, totaling \$1,172,125, is in the Personnel compensation and benefits category. This amount represents 42.46% (\$1,172,125 divided by \$2,760,553) of the total MGO expense variance.

The second largest variance is in Consulting, in the amount of \$590,715, and is 21.40% of the variance. The variance is due to decreased spending on outside counsel, and projects such as the annual update of census figures, the migrant census study, and the business process review, which are ongoing, but will be completed in FY 2015.

Attachment B, page 3, shows the MGO contingency funds by categories. Attachment B, page 4, provides a summary of the expenditures by office and by budget category.

Attachment C, pages 1 and 2, presents a breakdown of the other operating expenses by account code, and we are under budget by \$166,434.

Robert J. Grey, Jr.
FY 2014 Financial Reports
Page 4

Attachment D, page 1, shows a comparative OIG budget and expenditures by budget category, and all are under budget. Attachment D, page 2, presents the OIG Contingency funds by budget category, and there are no expenses.

If you have any questions, please let me know.

Attachments (A – B – C - D)

cc Board of Directors
President
Corporate Secretary
Inspector General

LEGAL SERVICES CORPORATION
CONSOLIDATED OPERATING BUDGET WORKSHEET
FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER 30, 2014
FOR FISCAL YEAR 2014

| (1) | (2) | | (3) | | (4) | | (5) | | (6) | | (7) |
|----------------------------------------------------------------|-----------------------------|----------------------|---------------------------------------------------------|---------------------------|-----------------------------------------------|------------------|---------------------------|----------------------|---------------------------------|---------------------|---------------------------------------------------------------------------|
| | F I S C A L Y E A R 2 0 1 4 | | V A R I A N C E B U D V S A C T U N D E R / (O V E R) | | % O F V A R I A N C E U N D E R / (O V E R) | | E N C U M - B R A N C E S | | P R I O R Y - T - D A C T U A L | | V A R I A N C E A C T U A L V S P R I O R Y - T - D I N C R / (D E C R) |
| ANNUAL BUDGET | ACTUAL | | VARIANCE UNDER / (OVER) | BUD VS ACT UNDER / (OVER) | % OF VARIANCE UNDER / (OVER) | | ENCUM- BRANCES | | PRIOR Y-T-D ACTUAL | | VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) |
| I. DELIVERY OF LEGAL ASSISTANCE | | | | | | | | | | | |
| 1. Basic Field Programs | 338,332,991 | 335,824,344 | \$508,647 | 0.15 | | \$0 | | | 316,345,623 | | \$19,478,721 |
| 2. US Court of Vets Appeals Funds | 2,506,752 | 2,501,330 | 5,422 | 0.22 | | - | | 2,506,752 | | (5,422) | |
| 3. Grants From Other Funds | 273,366 | 63,266 | 210,100 | 76.86 | | - | | 329,297 | | (266,031) | |
| 4. Technology Initiatives | 6,875,828 | 6,682,679 | 193,149 | 2.81 | | - | | 914,080 | | 5,768,599 | |
| 5. Hurricane Sandy Disaster Relief Funds | 75,959 | - | 75,959 | 100.00 | | - | | 874,041 | | (874,041) | |
| 6. Pro Bono Innovation Funds | 2,500,000 | 2,375,000 | 125,000 | 5.00 | | - | | - | | 2,375,000 | |
| TOTAL DELIVERY OF LEGAL ASSISTANCE | 348,564,896 | 347,446,619 | 1,118,277 | 0.32 | | - | | 320,969,793 | | 26,476,826 | |
| II. HERBERT S. GARTEN LOAN REPAYMENT ASSISTANCE PROGRAM | | | | | | | | | | | |
| | 2,439,193 | 1,030,774 | 1,408,419 | 57.74 | | - | | 1,095,858 | | (65,084) | |
| III. MANAGEMENT & GRANTS OVERSIGHT | | | | | | | | | | | |
| 1. MGO Operating Budget | 19,603,400 | \$16,842,847 | 2,760,553 | 14.08 | | 260,295 | | 16,197,277 | | 645,570 | |
| 2. MGO Research Initiative | 200,113 | 133,491 | 66,622 | 33.29 | | 41,667 | | 87,078 | | 46,413 | |
| 3. MGO Contingency Funds | 3,526,282 | - | 3,526,282 | 100.00 | | - | | - | | - | |
| TOTAL MANAGEMENT & GRANTS OVERSIGHT | 23,329,795 | 16,976,338 | 6,353,457 | 27.23 | | 301,962 | | 16,284,355 | | 691,983 | |
| IV. INSPECTOR GENERAL | | | | | | | | | | | |
| 1. IG Operating Budget | 5,303,700 | 4,736,410 | 567,290 | 10.70 | | 46,988 | | 4,637,950 | | 98,460 | |
| 2. IG Contingency Funds | 233,981 | - | 233,981 | 100.00 | | - | | - | | - | |
| TOTAL INSPECTOR GENERAL | 5,537,681 | 4,736,410 | 801,271 | 14.47 | | 46,988 | | 4,637,950 | | 98,460 | |
| TOTAL | \$379,871,565 | \$370,190,141 | \$9,681,424 | | | \$348,950 | | \$342,987,956 | | \$27,202,185 | |

* \$2,330

LEGAL SERVICES CORPORATION
CONSOLIDATED OPERATING BUDGET WORKSHEET
FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER 30, 2014
FOR FISCAL YEAR 2014

| | (1) | | (2) | | (3) | | (4) | | (5) | | (6) | | (7) | |
|---------------------------------------------------|---------------------|---------------------|-------------------------|---------------------------|------------------------------|---------------------|--------------------|----------------------------------------------|-----|--|-----|--|-----|--|
| | ANNUAL BUDGET | ACTUAL | VARIANCE UNDER / (OVER) | BUD VS ACT UNDER / (OVER) | % OF VARIANCE UNDER / (OVER) | ENCUMBRANCES | PRIOR Y-T-D ACTUAL | VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) | | | | | | |
| III. MANAGEMENT & GRANTS OVERSIGHT | | | | | | | | | | | | | | |
| 1. Board of Directors | \$393,900 | \$280,182 | \$113,718 | 28.87 | \$0 | \$276,283 | \$3,899 | | | | | | | |
| 2. Executive Office | 1,204,725 | 1,086,534 | 118,191 | 9.81 | - | 906,934 | 179,600 | | | | | | | |
| 3. Legal Affairs | 1,306,450 | 1,085,534 | 220,916 | 16.91 | 22,272 | 1,017,170 | 68,364 | | | | | | | |
| 4. Government Relations/Public Affairs | 1,116,575 | 954,810 | 161,765 | 14.49 | 11,570 | 1,001,113 | (46,303) | | | | | | | |
| 5. Human Resources | 843,700 | 675,525 | 168,175 | 19.93 | 13,793 | 679,457 | (3,932) | | | | | | | |
| 6. Financial & Admin Services | 3,635,975 | 3,261,114 | 374,861 | 10.31 | 14,155 | 3,083,391 | 177,723 | | | | | | | |
| 7. Information Technology | 2,027,825 | 1,576,559 | 451,266 | 22.25 | 151,153 | 1,367,961 | 208,598 | | | | | | | |
| 8. Program Performance | 4,273,550 | 3,757,970 | 515,580 | 12.06 | 41,352 | 3,886,068 | (128,098) | | | | | | | |
| 9. Information Management | 596,100 | 542,545 | 53,555 | 8.98 | - | 575,789 | (33,244) | | | | | | | |
| 10. Compliance & Enforcement | 4,204,600 | 3,622,074 | 582,526 | 13.85 | - | 3,403,111 | 218,963 | | | | | | | |
| MANAGEMENT & GRANTS OVERSIGHT SUBTOTAL | \$19,603,400 | \$16,842,847 | \$2,760,553 | 14.08 | \$260,295 | \$16,197,277 | \$645,570 | | | | | | | |
| 11. M & G O Research Initiative | 200,113 | 133,491 | 66,622 | 33.29 | 41,667 | 87,078 | 46,413 | | | | | | | |
| 12. M & G O Contingency Funds | 3,526,282 | - | 3,526,282 | 100.00 | - | - | - | | | | | | | |
| TOTAL MANAGEMENT & GRANTS OVERSIGHT | \$23,329,795 | \$16,976,338 | \$6,353,457 | 27.23 | \$301,962 | \$16,284,355 | \$691,983 | | | | | | | |

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER 30, 2014
FOR FISCAL YEAR 2014
MANAGEMENT AND GRANTS OVERSIGHT

| (1) ANNUAL BUDGET | (2) | | (3) F I S C A L Y E A R 2 0 1 4 | | (4) % OF VARIANCE UNDER / (OVER) | | (5) ENCUM- BRANCES | (6) C O M P A R A T I V E | | (7) VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) |
|----------------------------|---------------------|---------------------------------------------|------------------------------------|---------------------------------------|----------------------------------------------|-----------------------|-------------------------------------------------------|------------------------------|--|--------------------------------------------------------------|
| | ACTUAL | VARIANCE BUD VS ACT UNDER / (OVER) | VARIANCE UNDER / (OVER) | % OF VARIANCE UNDER / (OVER) | ENCUM- BRANCES | PRIOR Y-T-D ACTUAL | VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) | | | |
| TOTAL COMP./BENEFITS | 13,504,875 | 1,172,125 | 8.68 | - | - | 11,972,618 | 360,132 | | | |
| TEMP. EMPLOYEE PAY | 761,525 | 171,377 | 22.50 | - | - | 628,593 | (38,445) | | | |
| CONSULTING | 987,500 | 396,785 | 59.82 | 209,691 | 209,691 | 344,763 | 52,022 | | | |
| TRAVEL/TRANSPORTATION EXPS | 1,168,450 | 781,758 | 33.09 | 16,500 | 16,500 | 642,736 | 139,022 | | | |
| COMMUNICATIONS | 122,200 | 86,305 | 29.37 | - | - | 83,217 | 3,088 | | | |
| OCCUPANCY COST | 1,801,500 | 1,718,928 | 4.58 | - | - | 1,710,000 | 8,928 | | | |
| PRINTING & REPRODUCTION | 78,550 | 57,456 | 26.85 | - | - | 59,448 | (1,992) | | | |
| OTHER OPERATING EXPENSES | 900,800 | 734,366 | 18.48 | 34,104 | 34,104 | 747,053 | (12,687) | | | |
| CAPITAL EXPENDITURES | 278,000 | 144,351 | 48.08 | - | - | 50,294 | 94,057 | | | |
| TOTAL | \$19,603,400 | 16,842,847 | 2,760,553 | 14.08 | \$260,295 | 16,238,722 | 604,125 | | | |

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER 30, 2014
FOR FISCAL YEAR 2014
MANAGEMENT AND GRANTS OVERSIGHT CONTINGENCY FUNDS

| BUDGET CATEGORY | (1) | (2) | (3) | | (4) | | (5) | (6) | | (7) |
|----------------------------|--------------------|----------|------------------------------------|------------------------------|------------------|--|--------------|--------------------|----------------------------------------------|-----|
| | ANNUAL BUDGET | ACTUAL | VARIANCE BUD VS ACT UNDER / (OVER) | % OF VARIANCE UNDER / (OVER) | FISCAL YEAR 2014 | | ENCUMBRANCES | PRIOR Y-T-D ACTUAL | VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) | |
| TOTAL COMP./BENEFITS | \$2,068,500 | - | 2,068,500 | | | | - | - | - | |
| TEMP. EMPLOYEE PAY | - | - | - | | | | - | - | - | |
| CONSULTING | - | - | - | | | | - | - | - | |
| TRAVEL/TRANSPORTATION EXPS | - | - | - | | | | - | - | - | |
| COMMUNICATIONS | - | - | - | | | | - | - | - | |
| OCCUPANCY COST | - | - | - | | | | - | - | - | |
| PRINTING & REPRODUCTION | - | - | - | | | | - | - | - | |
| OTHER OPERATING EXPENSES | 1,457,782 | - | 1,457,782 | | | | - | - | - | |
| CAPITAL EXPENDITURES | - | - | - | | | | - | - | - | |
| TOTAL | \$3,526,282 | - | 3,526,282 | | | | \$0 | - | - | |

LEGAL SERVICES CORPORATION
OPERATING EXPENSES FOR FISCAL YEAR 2014
FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER 30, 2014
FOR FISCAL YEAR 2014
MANAGEMENT AND GRANTS OVERSIGHT

| BUDGET CATEGORY | BOARD OF DIRECTORS | EXECUTIVE OFFICE | LEGAL AFFAIRS | GOVT REL PUBLIC AFFS | HUMAN RESOURCES | OFFICE FINANCIAL & ADMIN SRVCS |
|----------------------------|------------------------|---------------------|------------------------|--------------------------|------------------------------|--------------------------------|
| COMPENSATION & BENEFITS | - | 1,039,514 | 953,380 | 871,188 | 587,999 | 1,090,711 |
| TEMPORARY EMPLOYEE PAY | - | 9,945 | 50,072 | 28,930 | - | 8,544 |
| CONSULTING | 74,663 | 1,738 | 34,388 | - | 63,757 | 6,700 |
| TRAVEL/TRANSPORTATION EXPS | 148,451 | 30,077 | 7,434 | 19,982 | 13,011 | 7,117 |
| COMMUNICATIONS | 3,342 | 3,382 | 2,679 | 4,212 | 1,729 | 13,273 |
| OCCUPANCY COST | - | - | - | - | - | 1,718,928 |
| PRINTING & REPRODUCTION | - | - | - | - | - | 57,456 |
| OTHER OPERATING EXPENSES | 53,726 | 1,878 | 37,561 | 30,498 | 9,029 | 358,385 |
| CAPITAL EXPENDITURES | - | - | - | - | - | - |
| TOTAL | \$280,182 | \$1,086,534 | \$1,085,534 | \$954,810 | \$675,525 | \$3,261,114 |
| BUDGET CATEGORY | INFORMATION TECHNOLOGY | PROGRAM PERFORMANCE | INFORMATION MANAGEMENT | COMPLIANCE & ENFORCEMENT | TOTAL MGT & GRANTS OVERSIGHT | TOTAL |
| COMPENSATION & BENEFITS | 996,044 | 3,114,590 | 520,575 | 3,158,749 | 12,332,750 | 12,332,750 |
| TEMPORARY EMPLOYEE PAY | - | 317,186 | - | 175,471 | 590,148 | 590,148 |
| CONSULTING | 180,973 | 34,566 | - | - | 396,785 | 396,785 |
| TRAVEL/TRANSPORTATION EXPS | 16,116 | 261,598 | - | 277,972 | 781,758 | 781,758 |
| COMMUNICATIONS | 34,967 | 13,049 | 29 | 9,643 | 86,305 | 86,305 |
| OCCUPANCY COST | - | - | - | - | 1,718,928 | 1,718,928 |
| PRINTING & REPRODUCTION | - | - | - | - | 57,456 | 57,456 |
| OTHER OPERATING EXPENSES | 204,108 | 16,981 | 21,941 | 239 | 734,366 | 734,366 |
| CAPITAL EXPENDITURES | 144,351 | - | - | - | 144,351 | 144,351 |
| TOTAL | \$1,576,559 | \$3,757,970 | \$542,545 | \$3,622,074 | \$16,842,847 | \$16,842,847 |

| OTHER OPERATING EXPENSES FOR THE TWELVE - MONTH PERIOD ENDING SEPTEMBER 30, 2014 | | | | | |
|----------------------------------------------------------------------------------|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|------------------------------------------------------------------|------------------------------------|
| ACCOUNT CODES | DESCRIPTION | COST CENTERS | ACTUAL | TWELVE -TWELFTHS OF THE FY 2014 BUDGET | UNDER / (OVER) BUD VS ACT VARIANCE |
| | | | 734,366.00 | 900,800.00 | 166,434.00 |
| | ANNUAL BUDGET | | \$900,800.00 | | |
| | | | | | YTD EXPENSE |
| 5650 | ADVERTISING & CLIPPING SERVICES | BOARD OF DIRECTORS HUMAN RESOURCES TOTAL | | 38,879.00 2,109.00 | 56,771.94 |
| 5660 | DUES & MEMBERSHIPS | LEGAL AFFAIRS FINANCIAL & ADMIN SERVICES TOTAL | | 804.00 50.00 | 854.00 |
| 5670 | SUBSCRIPTIONS | LEGAL AFFAIRS HUMAN RESOURCES FINANCIAL & ADMIN SERVICES OFFICE OF PROGRAM PERFORMANCE INFORMATION MANAGEMENT OFFICE OF COMPLIANCE AND ENFORCEMENT TOTAL | | 6,416.66 32.95 461.00 1,588.99 10,860.90 152.00 | 19,512.50 |
| 5680 | EMPLOYEE LECTURES/OTHER ACT. | HUMAN RESOURCES FINANCIAL & ADMIN SERVICES TOTAL | | 2,174.11 29,382.00 | 32,587.31 |
| 5690 | OFFICE EXPENSES | LEGAL AFFAIRS GOVERNMENT RELATIONS/PUBLIC AFFAIRS HUMAN RESOURCES FINANCIAL & ADMIN SERVICES INFORMATION TECHNOLOGY INFORMATION MANAGEMENT TOTAL | | 632.50 444.73 3,565.14 28,922.66 178.02 10,392.68 | 44,135.73 |
| | | TOTAL OTHER OPERATING EXPENSES | | | \$734,367.31 |

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER 30, 2014
FOR FISCAL YEAR 2014
INSPECTOR GENERAL

| (1) ANNUAL BUDGET | (2) | | (3) | | (4) | | (5) | | (6) | | (7) |
|----------------------------|--------------------|---------------------------------------------|---------------------------------------|---------------------------------------------|-------------------|-----------------------|-------------------------------------------------------|--|-------------|--|-------------|
| | FISCAL YEAR 2014 | | FISCAL YEAR 2014 | | FISCAL YEAR 2014 | | FISCAL YEAR 2014 | | COMPARATIVE | | COMPARATIVE |
| | ACTUAL | VARIANCE BUD VS ACT UNDER / (OVER) | % OF VARIANCE UNDER / (OVER) | VARIANCE BUD VS ACT UNDER / (OVER) | ENCUM- BRANCES | PRIOR Y-T-D ACTUAL | VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) | | | | |
| TOTAL COMP./BENEFITS | \$4,265,700 | 247,671 | 5.81 | 5.81 | - | 3,928,045 | 89,984 | | | | |
| TEMP. EMPLOYEE PAY | 50,000 | 38,850 | 77.70 | 77.70 | - | 9,775 | 1,375 | | | | |
| CONSULTING | 500,000 | 332,890 | 66.58 | 33.42 | 39,200 | 340,228 | (7,338) | | | | |
| TRAVEL/TRANSPORTATION EXPS | 276,000 | 236,310 | 85.62 | 14.38 | 7,788 | 218,597 | 17,713 | | | | |
| COMMUNICATIONS | 37,000 | 29,482 | 79.68 | 20.32 | - | 21,436 | 8,046 | | | | |
| OCCUPANCY COST | 12,000 | 4,075 | 33.96 | 66.04 | - | - | 4,075 | | | | |
| PRINTING & REPRODUCTION | 19,000 | 13,020 | 68.53 | 31.47 | - | 8,496 | 4,524 | | | | |
| OTHER OPERATING EXPENSES | 84,000 | 81,483 | 97.12 | 3.00 | - | 73,120 | 8,363 | | | | |
| CAPITAL EXPENDITURES | 60,000 | 9,971 | 16.62 | 83.38 | - | 38,253 | (28,282) | | | | |
| TOTAL | \$5,303,700 | 567,290 | 10.70 | 10.70 | \$46,988 | 4,637,950 | 98,460 | | | | |

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE TWELVE-MONTH PERIOD ENDING SEPTEMBER 30, 2014
FOR FISCAL YEAR 2014
INSPECTOR GENERAL CONTINGENCY FUNDS

| BUDGET CATEGORY | (1) | (2) | (3) | | (4) | (5) | | (6) | (7) |
|----------------------------|------------------|----------|------------------------------------|---------------------|-------------------------|--------------|--------------------|----------------------------------------------|-----|
| | ANNUAL BUDGET | ACTUAL | VARIANCE BUD VS ACT UNDER / (OVER) | % OF UNDER / (OVER) | VARIANCE UNDER / (OVER) | ENCUMBRANCES | PRIOR Y-T-D ACTUAL | VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) | |
| TOTAL COMP./BENEFITS | - | - | - | - | - | - | - | - | |
| TEMP. EMPLOYEE PAY | - | - | - | - | - | - | - | - | |
| CONSULTING | - | - | - | - | - | - | - | - | |
| TRAVEL/TRANSPORTATION EXPS | - | - | - | - | - | - | - | - | |
| COMMUNICATIONS | - | - | - | - | - | - | - | - | |
| OCCUPANCY COST | - | - | - | - | - | - | - | - | |
| PRINTING & REPRODUCTION | - | - | - | - | - | - | - | - | |
| OTHER OPERATING EXPENSES | 233,981 | - | 233,981 | - | - | - | - | - | |
| CAPITAL EXPENDITURES | - | - | - | - | - | - | - | - | |
| TOTAL | <u>\$233,981</u> | <u>-</u> | <u>233,981</u> | <u>-</u> | <u>-</u> | <u>\$0</u> | <u>-</u> | <u>\$0</u> | |

Financial Report for First Two Months of FY 2015

FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

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

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

DATE: January 13, 2015

SUBJECT: November 2014 Financial Reports

The financial report for the second month of fiscal year 2015 is attached. There are four attachments (some with multiple pages) that comprise this report; we are using the fiscal year (FY) 2015 Temporary Operating Budget (TOB) that was approved at the October Board meeting for our comparisons.

Attachment A provides summary information for each element of the Temporary Operating Budget in two sections.

Attachment B presents Management and Grants Oversight's (MGO) budget and expenditures.

Attachment C shows the MGO Other Operating Expenses by cost centers.

Attachment D provides budget and expenditures for the Office of Inspector General (OIG).

The first section of Attachment A presents information for the Delivery of Legal Assistance, *Roman numeral I*, and the Herbert S. Garten Loan Repayment Assistance Program (LRAP), *Roman numeral II*. The expenditures are compared to the annual budget, and the report shows the variance for each budget line. The expenditures are also compared to the same period of the prior year.

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

1. The Basic Field Programs budget is \$336,022,669; there are no grant expenses for this period. The grants awarded in January 2015 totaled \$338,603,456, which are \$2,580,787 more than the TOB. The TOB resolution was passed in October and allowed management to increase or to decrease grantee awards based on the actual FY 2015 appropriation once enacted. Because LSC's actual appropriation is higher than when the Board approved the TOB, an adjustment to reflect the increase in the budget is included in the Consolidated Operating Budget for consideration at this meeting.
 2. The U.S. Court of Veterans Appeals Funds budget totals \$2,503,615, and there are no grant expenses for this period; and no awards have been made since.
 3. The Grants from Other Funds budget totals \$553,366, and no emergency or one-time grants have been awarded.
 4. The Technology Initiatives budget totals \$3,972,266; there are no grant expenses for this period.
- II. The Herbert S. Garten Loan Repayment Assistance Program's budget is \$2,430,590; there are no loan expenses for the period.

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

- III. MGO's annual budget totals \$24,155,028. The budget is comprised of the MGO operating budget of \$19,940,000, the MGO Research Initiative of \$65,000, and the MGO Contingency Funds totaling \$4,150,028.

The MGO operating budget allocation for this reporting period is \$3,323,334, compared to the actual expenses of \$2,896,811. LSC is under budget by \$426,523 or 12.83%, and the encumbrances for the period are \$483,402. The expenditures are \$92,573 more than the same period in 2014.

The MGO Research Initiative budget allocation is \$10,833, and there are no expenses. The iScale and Keystone Accountability contract has a balance of \$41,667, which is the amount of the encumbrance.

The MGO Contingency Funds allocation is \$691,671, and there are no expenses.

- IV. The OIG's annual budget totals \$5,197,590. The budget allocation is \$866,265, compared to actual expenses of \$744,669. The OIG is \$121,596 or 14.04%, under budget, and the encumbrances are \$180,311. The expenditures are \$112,218 less than in 2014.

Attachment B, page 1, presents comparative budgets and expenditures for MGO by cost center; all cost centers are under budget except in the Office of Government Relations/Public Affairs (GRPA). GRPA was over budget because an invoice for printing the FY 2013 Annual Report was not paid until December 2014. Attachment B, page 2, shows the budgets and expenditures by budget category for the MGO operating budget. The variances show that we are under budget in each category except for temporary employee pay, which is over budget by \$8,558. This amount is mainly attributed to the use of Program Visit Specialists in the Office of Compliance and Enforcement in the first two months of the fiscal year.

The largest variance under budget, totaling \$277,932, is in the Compensation and Benefits category. This amount represents 65.00% (\$277,932 divided by \$426,523) of this month's total MGO variance. The variance is principally because of open positions. The open positions as of November 30 were:

Human Resources – Human Resources Administrative Assistant (position was filled and the new staff member began work on January 5, 2015);

Program Performance – a Program Analyst, a Research Analyst, and a Pro Bono Analyst (the Pro Bono Analyst position was filled and the new staff member began work on December 1, 2014);

Compliance and Enforcement – 2 Fiscal Compliance Analyst positions and a Program Counsel position; and

Information Management – Director of OIM.

Robert J. Grey, Jr.
November 2014 Financial Reports
Page 4

Attachment B, page 3, shows the MGO Contingency Funds budget categories. Attachment B, page 4, provides a summary of the expenditures by office and by budget category. Attachment C, pages 1 and 2, presents a breakdown of the other operating expenses by account code and by cost center.

Attachment D, page 1, shows a comparative OIG budget and expenditures by budget category. The only budget category over budget is other operating expenses because of the purchase of equipment. These purchases are considered other operating expenses rather than capital expenditures because their costs are under \$500.

If you have any questions, please let me know.

Attachments (A – B – C - D)

cc Board of Directors
President
Corporate Secretary
Inspector General

LEGAL SERVICES CORPORATION
TEMPORARY OPERATING BUDGET WORKSHEET
FOR THE TWO-MONTH PERIOD ENDING NOVEMBER 30, 2014
FOR FISCAL YEAR 2015

| | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
|--------------------------------------------------------------------|-----------------------------|--------------------|--------------------------------------------|---------------------------------------------|---------------------------------------|-------------------|-----------------------|-------------------------------------------------------|
| | F I S C A L Y E A R 2 0 1 5 | | | | | | C O M P A R A T I V E | |
| | ANNUAL BUDGET | ACTUAL | ANNUAL BUDGET | VARIANCE BUD VS ACT UNDER / (OVER) | % OF VARIANCE UNDER / (OVER) | ENCUM- BRANCES | PRIOR Y-T-D ACTUAL | VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) |
| I. DELIVERY OF LEGAL ASSISTANCE | | | | | | | | |
| 1. Basic Field Programs | 336,022,669 | - | \$336,022,669 | \$336,022,669 | 100.00 | \$0 | - | \$0 |
| 2. US Court of Vets Appeals Funds | 2,503,615 | - | 2,503,615 | 2,503,615 | 100.00 | - | 2,503,615 | (2,503,615) |
| 3. Grants From Other Funds | 553,366 | - | 553,366 | 553,366 | 100.00 | - | - | - |
| 4. Technology Initiatives | 3,972,266 | - | 3,972,266 | 3,972,266 | 100.00 | - | 2,010,289 | (2,010,289) |
| 5. Hurricane Sandy Disaster Relief Funds | 75,959 | - | 75,959 | 75,959 | 100.00 | - | - | - |
| 6. Pro Bono Innovation Funds | 2,498,615 | - | 2,498,615 | 2,498,615 | 100.00 | - | - | - |
| TOTAL DELIVERY OF LEGAL ASSISTANCE | 345,626,490 | - | 345,626,490 | 345,626,490 | 100.00 | - | 4,513,904 | (4,513,904) |
| II. HERBERT S. GARTEN LOAN REPAYMENT ASSISTANCE PROGRAM | | | | | | | | |
| | 2,430,590 | - | 2,430,590 * | 2,430,590 | 100.00 | - | - | - |
| III. MANAGEMENT & GRANTS OVERSIGHT | | | | | | | | |
| | | | TWO - TWELFTHS OF THE FY 2015 TOB | VARIANCE BUD VS ACT UNDER / (OVER) | % OF VARIANCE UNDER / (OVER) | ENCUM- BRANCES | PRIOR Y-T-D ACTUAL | VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) |
| 1. MGO Operating Budget | 19,940,000 | \$2,896,811 | 3,323,334 | 426,523 | 12.83 | 483,402 | 2,804,238 | 92,573 |
| 2. MGO Research Initiative | 65,000 | - | 10,833 | 10,833 | 100.00 | 41,667 | - | - |
| 3. MGO Contingency Funds | 4,150,028 | - | 691,671 | 691,671 | 100.00 | - | - | - |
| TOTAL MANAGEMENT & GRANTS OVERSIGHT | 24,155,028 | 2,896,811 | 4,025,838 | 1,129,027 | 28.04 | 525,069 | 2,804,238 | 92,573 |
| IV. INSPECTOR GENERAL | | | | | | | | |
| 1. I G Operating Budget | 5,197,590 | 744,669 | 866,265 | 121,596 | 14.04 | 180,311 | 856,887 | (112,218) |
| TOTAL INSPECTOR GENERAL | 5,197,590 | 744,669 | 866,265 | 121,596 | 14.04 | 180,311 | 856,887 | (112,218) |
| TOTAL | \$377,409,698 | \$3,641,480 | \$352,949,183 | \$349,307,703 | | \$705,380 | \$8,175,029 | (\$4,533,549) |

* \$472,230 LRAP ACCOUNTS RECEIVABLE

LEGAL SERVICES CORPORATION
TEMPORARY OPERATING BUDGET WORKSHEET
FOR THE TWO-MONTH PERIOD ENDING NOVEMBER 30, 2014
FOR FISCAL YEAR 2015

| | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
|---------------------------------------------------|-----------------------------|--------------------|--------------------------------------------|---------------------------------------------|---------------------------------------|-------------------|-----------------------|-------------------------------------------------------|
| | F I S C A L Y E A R 2 0 1 5 | | | | | | C O M P A R A T I V E | |
| | ANNUAL BUDGET | ACTUAL | TWO - TWELFTHS OF THE FY 2015 TOB | VARIANCE BUD VS ACT UNDER / (OVER) | % OF VARIANCE UNDER / (OVER) | ENCUM- BRANCES | PRIOR Y-T-D ACTUAL | VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) |
| III. MANAGEMENT & GRANTS OVERSIGHT | | | | | | | | |
| 1. Board of Directors | \$377,050 | \$42,924 | \$62,842 | \$19,918 | 31.70 | \$0 | \$58,659 | (\$15,735) |
| 2. Executive Office | 1,291,100 | 203,588 | 215,183 | 11,595 | 5.39 | - | 145,543 | 58,045 |
| 3. Legal Affairs | 1,357,650 | 189,285 | 226,275 | 36,990 | 16.35 | 41,275 | 205,245 | (15,960) |
| 4. Government Relations/Public Affairs | 1,094,700 | 189,642 | 182,450 | (7,192) | (3.94) | 12,629 | 165,194 | 24,448 |
| 5. Human Resources | 762,600 | 99,991 | 127,100 | 27,109 | 21.33 | 18,330 | 109,133 | (9,142) |
| 6. Financial & Admin Services | 3,686,950 | 541,386 | 614,492 | 73,106 | 11.90 | 7,770 | 506,039 | 35,347 |
| 7. Information Technology | 1,738,350 | 253,439 | 289,725 | 36,286 | 12.52 | 334,246 | 200,716 | 52,723 |
| 8. Program Performance | 4,520,350 | 655,120 | 753,392 | 98,272 | 13.04 | 40,477 | 655,259 | (139) |
| 9. Information Management | 604,775 | 68,258 | 100,796 | 32,538 | 32.28 | 10,175 | 95,127 | (26,869) |
| 10. Compliance & Enforcement | 4,506,475 | 653,178 | 751,079 | 97,901 | 13.03 | 18,500 | 663,323 | (10,145) |
| MANAGEMENT & GRANTS OVERSIGHT SUBTOTAL | \$19,940,000 | \$2,896,811 | \$3,323,334 | \$426,523 | 12.83 | \$483,402 | \$2,804,238 | \$92,573 |
| 11. M & G O Research Initiative | 65,000 | - | 10,833 | 10,833 | 100.00 | 41,667 | - | - |
| 12. M & G O Contingency Funds | 4,150,028 | - | 691,671 | 691,671 | 100.00 | - | - | - |
| TOTAL MANAGEMENT & GRANTS OVERSIGHT | \$24,155,028 | \$2,896,811 | \$4,025,838 | \$1,129,027 | 28.04 | \$525,069 | \$2,804,238 | \$92,573 |

LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE PERIOD ENDING NOVEMBER 30, 2014
FOR FISCAL YEAR 2015
MANAGEMENT AND GRANTS OVERSIGHT

| | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | |
|----------------------------|---------------------|-----------------------------|--------------------------------------|------------------------------------|------------------------------|------------------|--------------------|----------------------------------------------|--|
| | ANNUAL BUDGET | ACTUAL | TWO - TWELFTHS OF THE FY 2015 BUDGET | VARIANCE BUD VS ACT UNDER / (OVER) | % OF VARIANCE UNDER / (OVER) | ENCUMBRANCES | PRIOR Y-T-D ACTUAL | VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) | |
| | | F I S C A L Y E A R 2 0 1 5 | | | | | | C O M P A R A T I V E | |
| TOTAL COMP./BENEFITS | 14,372,250 | 2,117,442 | 2,395,374 | 277,932 | 11.60 | - | 2,125,686 | (8,244) | |
| TEMP. EMPLOYEE PAY | 588,650 | 106,666 | 98,108 | (8,558) | (8.72) | - | 138,742 | (32,076) | |
| CONSULTING | 737,150 | 95,917 | 122,858 | 26,941 | 21.93 | 310,291 | 19,470 | 76,447 | |
| TRAVEL/TRANSPORTATION EXPS | 1,124,900 | 121,032 | 187,485 | 66,453 | 35.44 | 18,048 | 164,186 | (43,154) | |
| COMMUNICATIONS | 119,825 | 11,649 | 19,973 | 8,324 | 41.68 | - | 13,529 | (1,880) | |
| OCCUPANCY COST | 1,800,500 | 285,725 | 300,083 | 14,358 | 4.78 | - | 285,000 | 725 | |
| PRINTING & REPRODUCTION | 100,650 | 13,914 | 16,774 | 2,860 | 17.05 | - | 625 | 13,289 | |
| OTHER OPERATING EXPENSES | 904,075 | 140,520 | 150,679 | 10,159 | 6.74 | 155,063 | 91,455 | 49,065 | |
| CAPITAL EXPENDITURES | 192,000 | 3,946 | 32,000 | 28,054 | 87.67 | - | 2,235 | 1,711 | |
| TOTAL | \$19,940,000 | 2,896,811 | 3,323,334 | 426,523 | 12.83 | \$483,402 | 2,840,928 | 55,883 | |

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LEGAL SERVICES CORPORATION
FINANCIAL REPORT BY BUDGET CATEGORY
FOR THE PERIOD ENDING NOVEMBER 30, 2014
FOR FISCAL YEAR 2015
MANAGEMENT AND GRANTS OVERSIGHT CONTINGENCY FUNDS

| (1) BUDGET CATEGORY | (2) ANNUAL BUDGET | FISCAL YEAR 2015 | | | | (6) ENCUMBRANCES | COMPARATIVE | |
|----------------------------|----------------------|------------------|---------------------------------------------|-------------------------------------------|-------------------------------------|---------------------|---------------------------|-----------------------------------------------------|
| | | (3) ACTUAL | (4) TWO - TWELFTHS OF THE FY 2015 BUDGET | (5) VARIANCE BUD VS ACT UNDER / (OVER) | (5) % OF VARIANCE UNDER / (OVER) | | (7) PRIOR Y-T-D ACTUAL | (8) VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) |
| TOTAL COMP./BENEFITS | \$2,448,516 | - | 408,086 | 408,086 | | - | - | - |
| TEMP. EMPLOYEE PAY | - | - | - | - | | - | - | - |
| CONSULTING | - | - | - | - | | - | - | - |
| TRAVEL/TRANSPORTATION EXPS | - | - | - | - | | - | - | - |
| COMMUNICATIONS | - | - | - | - | | - | - | - |
| OCCUPANCY COST | - | - | - | - | | - | - | - |
| PRINTING & REPRODUCTION | - | - | - | - | | - | - | - |
| OTHER OPERATING EXPENSES | 1,701,512 | - | 283,585 | 283,585 | | - | - | - |
| CAPITAL EXPENDITURES | - | - | - | - | | - | - | - |
| TOTAL | \$4,150,028 | - | 691,671 | 691,671 | | \$0 | - | - |

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LEGAL SERVICES CORPORATION
OPERATING EXPENSES FOR FISCAL YEAR 2015
FOR THE PERIOD ENDING NOVEMBER 30, 2014
MANAGEMENT AND GRANTS OVERSIGHT

| BUDGET CATEGORY | BOARD OF DIRECTORS | EXECUTIVE OFFICE | LEGAL AFFAIRS | GOV'T REL PUBLIC AFFS | HUMAN RESOURCES | OFFICE FINANCIAL & ADMIN SRVCS |
|----------------------------|------------------------|---------------------|------------------------|--------------------------|------------------------------|--------------------------------|
| COMPENSATION & BENEFITS | - | 186,264 | 158,650 | 158,831 | 92,981 | 178,122 |
| TEMPORARY EMPLOYEE PAY | - | 1,908 | 10,284 | 5,092 | - | - |
| CONSULTING | 14,083 | 7,336 | 13,000 | - | 4,561 | - |
| TRAVEL/TRANSPORTATION EXPS | 27,337 | 7,201 | 2,671 | 6,534 | 199 | 2,863 |
| COMMUNICATIONS | 294 | 595 | 454 | 915 | 219 | 602 |
| OCCUPANCY COST | - | - | - | - | - | 285,725 |
| PRINTING & REPRODUCTION | - | - | - | 10,975 | - | 2,939 |
| OTHER OPERATING EXPENSES | 1,210 | 284 | 4,226 | 7,295 | 1,048 | 69,985 |
| CAPITAL EXPENDITURES | - | - | - | - | 983 | 1,150 |
| TOTAL | \$42,924 | \$203,588 | \$189,285 | \$189,642 | \$99,991 | \$541,386 |
| BUDGET CATEGORY | INFORMATION TECHNOLOGY | PROGRAM PERFORMANCE | INFORMATION MANAGEMENT | COMPLIANCE & ENFORCEMENT | TOTAL MGT & GRANTS OVERSIGHT | |
| COMPENSATION & BENEFITS | 154,494 | 559,767 | 64,844 | 563,489 | 2,117,442 | |
| TEMPORARY EMPLOYEE PAY | - | 45,882 | - | 43,500 | 106,666 | |
| CONSULTING | 42,236 | 14,701 | - | - | 95,917 | |
| TRAVEL/TRANSPORTATION EXPS | - | 30,299 | - | 43,928 | 121,032 | |
| COMMUNICATIONS | 4,210 | 2,404 | 21 | 1,935 | 11,649 | |
| OCCUPANCY COST | - | - | - | - | 285,725 | |
| PRINTING & REPRODUCTION | - | - | - | - | 13,914 | |
| OTHER OPERATING EXPENSES | 50,686 | 2,067 | 3,393 | 326 | 140,520 | |
| CAPITAL EXPENDITURES | 1,813 | - | - | - | 3,946 | |
| TOTAL | \$253,439 | \$655,120 | \$68,258 | \$653,178 | \$2,896,811 | |

| OTHER OPERATING EXPENSES FOR THE TWO - MONTH PERIOD ENDING NOVEMBER 30, 2014 | | | | | |
|------------------------------------------------------------------------------|---------------|--|------------|-------------------------------------------|------------------------------------------|
| | ANNUAL BUDGET | | ACTUAL | TWO -TWELFTHS OF THE FY 2015 BUDGET | UNDER / (OVER) BUD VS ACT VARIANCE |
| | \$904,075.00 | | 140,520.00 | 150,679.00 | 10,159.00 |

| ACCOUNT CODES | DESCRIPTION | COST CENTERS | | YTD EXPENSE |
|------------------|----------------------|------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|-------------|
| 5600 | EQUIPMENT RENTAL | BOARD OF DIRECTORS INFORMATION TECHNOLOGY TOTAL | 574.00 18,338.48 | 18,912.48 |
| 5610 | OFFICE SUPPLIES | EXECUTIVE OFFICE FINANCIAL & ADMIN SERVICES INFORMATION TECHNOLOGY COMPLIANCE & ENFORCEMENT TOTAL | 210.46 10,141.66 692.16 219.36 | 11,263.64 |
| 5611 | OFFICE EQUIPMENT | GOVERNMENT RELATIONS/PUBLIC AFFAIRS HUMAN RESOURCES FINANCIAL & ADMIN SERVICES INFORMATION TECHNOLOGY TOTAL | 69.55 164.21 1,115.13 15,843.60 | 17,192.49 |
| 5620 | COMMERICAL INSURANCE | FINANCIAL & ADMIN SERVICES TOTAL | 34,557.75 | 34,557.75 |
| 5640 | DATA PROCESSING | LEGAL AFFAIRS GOVERNMENT RELATIONS/PUBLIC AFFAIRS HUMAN RESOURCES FINANCIAL & ADMIN SERVICES INFORMATION TECHNOLOGY TOTAL | 2,229.10 7,225.15 50.00 10,535.31 15,811.65 | 35,851.21 |

| OTHER OPERATING EXPENSES FOR THE TWO - MONTH PERIOD ENDING NOVEMBER 30, 2014 | | | | |
|------------------------------------------------------------------------------|------------|-------------------------------------|------------------------------------|--|
| ANNUAL BUDGET | ACTUAL | TWO -TWELFTHS OF THE FY 2015 BUDGET | UNDER / (OVER) BUD VS ACT VARIANCE | |
| \$904,075.00 | 140,520.00 | 150,679.00 | 10,159.00 | |

| ACCOUNT CODES | DESCRIPTION | COST CENTERS | YTD EXPENSE |
|---------------------------------------|---------------------------------|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| 5650 | ADVERTISING & CLIPPING SERVICES | BOARD OF DIRECTORS HUMAN RESOURCES OFFICE OF PROGRAM PERFORMANCE TOTAL | 636.00 460.00 2,067.00 <hr/> 3,163.00 |
| 5660 | DUES & MEMBERSHIPS | HUMAN RESOURCES TOTAL | 75.00 <hr/> 75.00 |
| 5670 | SUBSCRIPTIONS | LEGAL AFFAIRS INFORMATION MANAGEMENT OFFICE OF COMPLIANCE AND ENFORCEMENT TOTAL | 1,997.00 1,567.98 106.99 <hr/> 3,671.97 |
| 5680 | EMPLOYEE LECTURES/OTHER ACT. | HUMAN RESOURCES FINANCIAL & ADMIN SERVICES TOTAL | 90.75 7,850.62 <hr/> 7,941.37 |
| 5690 | OFFICE EXPENSES | EXECUTIVE OFFICE HUMAN RESOURCES FINANCIAL & ADMIN SERVICES INFORMATION MANAGEMENT TOTAL | 73.86 207.85 5,784.64 1,825.22 <hr/> 7,891.57 |
| TOTAL OTHER OPERATING EXPENSES | | | <hr/> \$140,520.48 <hr/> |

LEGAL SERVICES CORPORATION
 FINANCIAL REPORT BY BUDGET CATEGORY
 FOR THE PERIOD ENDING NOVEMBER 30, 2014
 FOR FISCAL YEAR 2015
 INSPECTOR GENERAL

| | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | |
|----------------------------|--------------------|------------------|--------------------------------------|------------------------------------|------------------------------|------------------|--------------------|----------------------------------------------|--|
| | ANNUAL BUDGET | ACTUAL | TWO - TWELFTHS OF THE FY 2015 BUDGET | VARIANCE BUD VS ACT UNDER / (OVER) | % OF VARIANCE UNDER / (OVER) | ENCUMBRANCES | PRIOR Y-T-D ACTUAL | VARIANCE ACTUAL VS PRIOR Y-T-D INCR / (DECR) | |
| | | FISCAL YEAR 2015 | | | | | | COMPARATIVE | |
| TOTAL COMP./BENEFITS | \$4,217,700 | 626,262 | 702,950 | 76,688 | 10.91 | - | 700,316 | (74,054) | |
| TEMP. EMPLOYEE PAY | 40,000 | 1,308 | 6,667 | 5,359 | 80.38 | - | 2,062 | (754) | |
| CONSULTING | 470,000 | 77,966 | 78,333 | 367 | 0.47 | 166,144 | 82,821 | (4,855) | |
| TRAVEL/TRANSPORTATION EXPS | 280,000 | 22,229 | 46,667 | 24,438 | 52.37 | 14,167 | 48,519 | (26,290) | |
| COMMUNICATIONS | 30,000 | 1,853 | 5,000 | 3,147 | 62.94 | - | 467 | 1,386 | |
| OCCUPANCY COST | 9,300 | - | 1,550 | 1,550 | 100.00 | - | - | - | |
| PRINTING & REPRODUCTION | 18,000 | 1,882 | 3,000 | 1,118 | 37.27 | - | 4,177 | (2,295) | |
| OTHER OPERATING EXPENSES | 64,590 | 11,388 | 10,765 | (623) | (5.79) | - | 10,849 | 539 | |
| CAPITAL EXPENDITURES | 68,000 | 1,781 | 11,333 | 9,552 | 84.28 | - | 7,676 | (5,895) | |
| TOTAL | \$5,197,590 | 744,669 | 866,265 | 121,596 | 14.04 | \$180,311 | 856,887 | (112,218) | |

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**Consolidated or Revised Operating Budget
for FY 2015**



FINANCIAL & ADMINISTRATIVE SERVICES

MEMORANDUM

TO: Robert J. Grey, Finance Committee Chairman

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

DATE: January 13, 2015

SUBJECT: Fiscal Year (FY) 2015 Proposed Consolidated Operating Budget (COB)

The Board of Directors approved Management's proposed Temporary Operating Budget (TOB) of \$377,409,698 in October 2014. This TOB was comprised of the annualized funding from the Continuing Resolution (CR) then in effect, plus projected carryover. In December, Congress passed an appropriation for FY 2015 that increased our funding by \$10,202,210. The increase in each line item is shown in the following table.

| | FY 2015 Appropriation | Annualized CR Funding | Funding Increase |
|--------------------------------------|--------------------------|--------------------------|---------------------|
| Basic Field Programs | 343,150,000 | 335,514,022 | 7,635,978 |
| Technology Initiatives | 4,000,000 | 3,448,089 | 551,911 |
| Pro Bono Innovation Funds | 4,000,000 | 2,498,615 | 1,501,385 |
| Herbert Garten LRAP | 1,000,000 | 999,446 | 554 |
| Management and Grants Administration | 18,500,000 | 17,990,028 | 509,972 |
| Inspector General | 4,350,000 | 4,347,590 | 2,410 |
| Totals | 375,000,000 | 364,797,790 | 10,202,210 |

The CR for the U.S. Court of Veterans Appeals provided funding of \$2,498,615, and with the final appropriation this increased to \$2,500,000, an increase of \$1,385.

We projected FY 2014 carryover to be \$10,113,293; with the audit now complete, the actual carryover totaled \$10,016,401, a reduction of \$96,892.

| | Actual Carryover | Projected Carryover | Increase (Decrease) in Carryover |
|---------------------------------------|---------------------|------------------------|----------------------------------------|
| Basic Field Programs | 462,147 | 508,647 | (46,500) |
| U.S. Court of Veterans Appeals | 5,422 | 5,000 | 422 |
| Grants from Other Funds | 536,238 | 553,366 | (17,128) |
| Technology Initiatives | 193,149 | 524,177 | (331,028) |
| Hurricane Sandy Disaster Relief Funds | 75,959 | 75,959 | - |
| Herbert Garten LRAP | 1,408,419 | 1,431,144 | (22,725) |
| Management and Grants Administration | 6,467,174 | 6,100,000 | 367,174 |
| MGO Research Initiative | 66,622 | 65,000 | 1,622 |
| Inspector General | 801,271 | 850,000 | (48,729) |
| Totals | 10,016,401 | 10,113,293 | (96,892) |

The decrease of \$46,500 in Basic Field Program funds is due to the hiring of a consultant by LSC management to assist with the organization of a grantee in America Samoa. We have statutory authority to transfer Basis Field Program funds to Management and Grants Oversight (MGO) to pay for this contract, and this transfer is included in the proposed COB.

There is an increase of \$422 in the U.S. Court of Veterans Appeals account because year-end expenses were less than projected. A decrease of \$17,128 for the Grants from Other Funds is required because after the projection was made, a \$63,266 grant was awarded, and we had additional grant recoveries of \$46,138.

A net decrease of \$22,725 in the Loan Repayment Assistance Program is attributable to loans that were forgiven in the last two weeks of the fiscal year and payments of outstanding loan balances were received. The Technology Initiatives decrease of \$331,028 is due to grants that were awarded in September that were not included in my projection.

Within MGO, there is an increase of \$367,174 due to less spending than projected; the transfer from the Basic Field Program budget of \$46,500 described above; and a transfer from the Pro Bono Innovation Funds of \$125,000 to provide for administrative support for the Pro Bono Innovation competition process.

This proposed budget increases the MGO operating budget by \$460,000, and if approved, will be used to hire a Program Counsel in the Office of Program Performance, a Fiscal Oversight Analyst in the Office of Compliance and Enforcement, and an accountant in the Office of Financial and Administrative Services. We have also increased the following office budgets:

Executive office for personnel compensation and benefits by \$30,750 because of a recent promotion;

Office of Legal Affairs for consulting costs of \$14,500 to provide additional funds for the Migrant Study (originally, it was thought half the costs would be in FY 2014, but the full costs were delayed until this year);

Government Relations/Public Affairs to provide funding for printing FY 2013 Annual Report costs, because the payment was delayed until this fiscal year; and

Office of Information Technology – consulting was increased by \$100,000 to provide funds for the continuation of the website redesign, a consultant to assist with the selection of a new grants management system, and work to develop a uniform approach to compliance and fiscal work for Office of Compliance and Enforcements site visits.

The contingency funds of \$4,567,174 will be used to support future operations. Included in the contingency are funds to provide a one-month operating reserve of \$1,550,000 to sustain us in the event of a lapse in funding. We have two other projects for which we are earmarking funds: (1) \$800,000 for a new grants management system, which we may begin implementation in late FY 2015 and complete in FY 2016, and (2) \$75,000 for an evaluation of the Pro Bono Innovation Funds grants, for which some of the work will begin in FY 2015, and the remaining funds will be used to complete the evaluation in FYs 2016 and 2017. The contingency balance of \$2,142,174 will help to sustain the MGO operations through FY 2016 and most, if not all, of FY 2017, depending on operating carryover for those years.

On additional change to this year's proposed budget is contained in the Grants from Other Funds. We received funds totaling \$47,342 through a *cy pres* award in the *In Re Publication Paper Antitrust Litigation*. These funds will be used for Emergency and /or special one-time grants.

The following budget information is provided by the Office of Inspector General (OIG).

The FY 2015 LSC Appropriation included \$4,350,000 for the OIG. The OIG carryover reduced from \$1,187,681 in FY 2013 to \$801,271 in FY 2014; resulting in \$5,151,271 of total FY 2015 funding. The final FY 2014 carryover was \$48,729 less than projected in the TOB.

The OIG FY 2015 operating budget is \$4,950,600 with an additional contingency budget of \$200,671. The contingency was funded by delaying the hiring of the two open positions, recent staff hires at lower salary levels and the reduction in planned temporary employee support (\$200,100). Further, significant OIG budget adjustments included the resulting decrease in benefits (\$32,000) and reducing the information technology consulting (\$40,000), while increasing other operating costs by \$18,000 to account for software purchases.

This budget allows the OIG's work plan to remain flexible and can accommodate additional independent and objective reviews as requested by the Board or Congress.

* * * * *

Attached is a proposed COB resolution, which totals \$387,563,743. Two attachments supporting this recommendation. Attachment A summarizes the COB by budget line and Attachment B summarizes each office's budget by budget category. Questions or concerns related to the MGO budget should be directed to me at 202-295-1510 or Wendy Christmas at 202-295-1516. Questions regarding the Office of Inspector General's budget should be directed to Jeffrey Schanz (202) 295-1677 or David Maddox (202) 295-1653.

Attachments

LEGAL SERVICES CORPORATION
PROPOSED CONSOLIDATED OPERATING BUDGET

FOR THE FISCAL YEAR 2015

| | (1) | (2) | (3) | (4) |
|-----------------------------------------------|-----------------------------------|-------------------------------|----------------------------------------------------|------------------------------------------------------|
| | FY 2015 APPROPRIATION ----- | FY 2014 CARRYOVER ----- | COURT OF VETS APPEALS & ADJUSTMENTS ----- | FY 2015 CONSOLIDATED OPERATING BUDGET ----- |
| I. DELIVERY OF LEGAL ASSISTANCE | | | | |
| ----- | | | | |
| 1. Basic Field Programs | 343,150,000 | 462,147 | - | 343,612,147 |
| 2. U.S. Court of Veterans Appeals Funds | - | 5,422 | 2,500,000 | 2,505,422 |
| 3. Grants From Other Funds | - | 536,238 | 47,342 | 583,580 |
| 4. Technology Initiatives | 4,000,000 | 193,149 | - | 4,193,149 |
| 5. Hurricane Sandy Disaster Relief Funds | - | 75,959 | - | 75,959 |
| 6. Pro Bono Innovation Funds | 4,000,000 | - | - | 4,000,000 |
| | ----- | ----- | ----- | ----- |
| DELIVERY OF LEGAL ASSISTANCE TOTALS | 351,150,000 | 1,272,915 | 2,547,342 | 354,970,257 |
| II. HERBERT S. GARTEN | | | | |
| LOAN REPAYMENT ASSISTANCE PROGRAM | 1,000,000 | 1,408,419 | - | 2,408,419 |
| ----- | | | | |
| III. MANAGEMENT & GRANTS OVERSIGHT | | | | |
| ----- | | | | |
| 1. MGO Operating Budget | 18,500,000 | 1,900,000 | - | 20,400,000 |
| 2. MGO Research Initiative | - | 66,622 | - | 66,622 |
| 3. MGO Contingency Funds | - | 4,567,174 | - | 4,567,174 |
| | ----- | ----- | ----- | ----- |
| TOTAL - MANAGEMENT & GRANTS OVERSIGHT | 18,500,000 | 6,533,796 | - | 25,033,796 |
| IV. INSPECTOR GENERAL | | | | |
| ----- | | | | |
| 1. OIG Operating Budget | 4,350,000 | 600,600 | - | 4,950,600 |
| 2. OIG Contingency Funds | - | 200,671 | - | 200,671 |
| | ----- | ----- | ----- | ----- |
| TOTAL - OFFICE OF INSPECTOR GENERAL | 4,350,000 | 801,271 | - | 5,151,271 |
| | ----- | ----- | ----- | ----- |
| TOTAL BUDGET | \$375,000,000 | \$10,016,401 | 2,547,342 | \$387,563,743 |
| | ===== | ===== | ===== | ===== |

**LEGAL SERVICES CORPORATION
TEMPORARY OPERATING BUDGET
FOR MANAGEMENT AND GRANTS OVERSIGHT
AND INSPECTOR GENERAL
FOR FISCAL YEAR 2015**

| BUDGET CATEGORY | BOARD OF DIRECTORS | EXECUTIVE OFFICES | LEGAL AFFAIRS | GOVERNMENT RELATIONS & PUB AFFS | HUMAN RESOURCES | OFFICE FINANCIAL & ADMIN SRVCS |
|--------------------------|-----------------------------------|------------------------------|--------------------------|----------------------------------------------------|----------------------------|---------------------------------------------------|
| COMPENSATION & BENEFITS | 0 | 1,240,850 | 1,032,450 | 956,600 | 689,950 | 1,230,800 |
| TEMP. EMPLOYEE PAY | 0 | 10,500 | 70,200 | 30,700 | 0 | 15,400 |
| CONSULTING | 93,600 | 13,550 | 207,000 | 20,000 | 24,250 | 7,300 |
| TRAVEL & TRANSPORTATION | 222,450 | 48,800 | 17,900 | 41,300 | 45,100 | 18,100 |
| COMMUNICATIONS | 5,400 | 5,250 | 5,200 | 4,600 | 2,400 | 15,200 |
| OCCUPANCY COSTS | 0 | 0 | 0 | 0 | 0 | 1,800,000 |
| PRINTING & REPRODUCTION | 0 | 500 | 0 | 14,000 | 0 | 93,650 |
| OTHER OPERATING EXPENSES | 55,600 | 2,400 | 39,400 | 35,000 | 15,900 | 469,150 |
| CAPITAL EXPENDITURES | 0 | 0 | 0 | 0 | 0 | 130,000 |
| TOTAL | 377,050 | 1,321,850 | 1,372,150 | 1,102,200 | 777,600 | 3,779,600 |

| BUDGET CATEGORY | INFORMATION TECHNOLOGY | PROGRAM PERFORM | INFORMATION MANGEMENT | COMPLIANCE & ENFORCE | MGT & GRNTS OVERSIGHT | INSPECTOR GENERAL |
|--------------------------|-----------------------------------|----------------------------|----------------------------------|-------------------------------------|--------------------------------------|------------------------------|
| COMPENSATION & BENEFITS | 1,030,800 | 3,885,000 | 576,500 | 3,971,250 | 14,614,200 | 4,005,600 |
| TEMP. EMPLOYEE PAY | 0 | 302,200 | 0 | 159,650 | 588,650 | 20,000 |
| CONSULTING | 414,000 | 37,000 | 0 | 60,000 | 876,700 | 430,000 |
| TRAVEL & TRANSPORTATION | 45,000 | 328,750 | 4,000 | 368,500 | 1,139,900 | 280,000 |
| COMMUNICATIONS | 40,300 | 20,900 | 75 | 20,500 | 119,825 | 35,000 |
| OCCUPANCY COSTS | 0 | 500 | 0 | 0 | 1,800,500 | 6,000 |
| PRINTING & REPRODUCTION | 0 | 0 | 0 | 0 | 108,150 | 18,000 |
| OTHER OPERATING EXPENSES | 267,250 | 20,600 | 24,200 | 575 | 930,075 | 86,000 |
| CAPITAL EXPENDITURES | 92,000 | 0 | 0 | 0 | 222,000 | 70,000 |
| TOTAL | 1,889,350 | 4,594,950 | 604,775 | 4,580,475 | 20,400,000 | 4,950,600 |



BOARD OF DIRECTORS

RESOLUTION

**CONSOLIDATED OPERATING BUDGET
FOR FISCAL YEAR 2015**

WHEREAS, the Board of Directors (“Board”) of the Legal Services Corporation (“LSC”) has reviewed information regarding the Fiscal Year (FY) 2015 appropriation, the U.S Court of Veterans Appeals grant, and the FY 2014 carryover, and the funds available for the Consolidated Operating Budget (COB) are as follows:

- 1) Appropriation of \$375,000,000;
- 2) U.S. Court of Veterans Appeals funding of \$2,500,000;
- 3) Carryover in the amount of \$10,016,401, which is comprised of:
 - a. Basic Field Programs carryover of \$462,147;
 - b. U.S. Court of Veterans Appeals of \$5,422;
 - c. Grants from Other Funds of \$536,238;
 - d. Technology Initiative Grant funds of \$193,149;
 - e. Hurricane Sandy Disaster Relief Funds of \$75,959;
 - f. Herbert S. Garten Loan Repayment Assistance Program of \$1,408,419;
 - g. Management and Grants Oversight Operations of \$1,900,000;
 - h. Public Welfare Foundation Research Grant of \$66,622;
 - i. Management and Grants Oversight Contingency of \$4,567,174; and
 - j. Office of Inspector General of \$600,600;
 - k. Office of Inspector General Contingency of \$200,671; and
- 4) Other funds of \$47,342 from a *cy pres* award.

WHEREAS, Management and the Inspector General recommend that a COB be adopted reflecting the funds available;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts a COB for FY 2015 totaling \$387,563,743 of which \$354,970,257 is for the *Delivery of Legal Assistance*; \$2,408,419 is for the *Herbert S. Garten Loan Repayment Assistance Program*; \$20,400,000 is for *Management and Grants Oversight (MGO)*; \$66,622 is for *MGO Research Initiative*; \$4,567,174 is for *MGO Contingency Funds*; \$4,950,600 is for the *Office of Inspector General (OIG)*, \$200,671 is for the *OIG Contingency*, as reflected in the attached documents.

**Adopted by the Board of Directors
On January 24, 2015**

John G. Levi
Chairman

Attest:

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

Delivery of Legal Services Committee

Agenda

DELIVERY OF LEGAL SERVICES COMMITTEE

January 23, 2015

Agenda

Open Session

1. Approval of Agenda
2. Approval of minutes of the Committee's meeting on October 6, 2014
3. Discussion of Committee's evaluations for 2014 and the Committee's goals for 2015
4. Review and discussion of presentations to the Committee in 2013 and 2014, and of proposed topics for 2015
5. Panel presentation and Committee discussion of LSC's Performance Criteria, Performance Area Four, Criterion 2 – Leadership
 - **Jim Cook**, Executive Director, Idaho Legal Services, Inc.
 - **Christine Larson**, Executive Director, Three Rivers Legal Services, Inc.
 - **Allison Thompson**, former Executive Director, Three Rivers Legal Services, Inc.
 - **Nikole Nelson**, Executive Director, Alaska Legal Services Corporation
 - **Anthony Young**, Executive Director, Southern Arizona Legal Aid, Inc.
 - **Rick Moyers**, Vice President for Programs and Communications, The Meyer Foundation (*Moderator*)
6. Public comment
7. Consider and act on other business
8. Consider and act on motion to adjourn the meeting

**Draft Minutes of the October 5, 2014
Open Session Meeting**

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

Open Session

Sunday, October 5, 2014

DRAFT

Co-Chair Father Pius Pietrzyk convened an open session meeting of the Legal Services Corporation's ("LSC") Delivery of Legal Services Committee ("the Committee") at 5:39 p.m. on Sunday, October 5, 2014. The meeting was held at the Hilton Albany, 40 Lodge Street, Albany, New York 12207.

The following Committee members were present:

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

Other Board members present:

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

Also attending were:

| | |
|------------------|-------------------------------------------------------------------------|
| James J. Sandman | President |
| Lynn Jennings | Vice President for Grants Management |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel & Corporate Secretary |
| Stefanie Davis | Assistant General Counsel, Office of Legal Affairs |
| Wendy Rhein | Chief Development Officer |
| David Richardson | Comptroller/Treasurer, Office of Financial and Administrative Services |
| Jeffrey Schanz | Inspector General |
| Carol Bergman | Director, Office of Government Relations and Public Affairs (GRPA) |

| | |
|---------------------|-------------------------------------------------------------------------------------------|
| Carol Rauscher | Director of Media Relations, Office of Government Relations and Public Affairs (GRPA) |
| Wendy Long | Executive Assistant Office of Government Relations and Public Affairs (GRPA) |
| Lora M. Rath | Director, Office of Compliance and Enforcement (OCE) |
| Julia Kramer | Program Counsel, Office of Compliance and Enforcement (OCE), Executive Office |
| Janet LaBella | Director, Office of Program Performance (OPP) |
| Cheryl Nolan | Office of Program Performance (OPP) |
| Bernie Brady | Travel Coordinator |
| Herbert Garten | Non-Director Member, Institutional Advancement Committee |
| Marcos Navarro | Office of Government Relations and Public Affairs (GRPA) |
| William J. Hawkes | Executive Director, Neighborhood Legal Services |
| C. Kenneth Perri | Executive Director, Legal Assistance of Western New York |
| Paul J. Lupia | Executive Director, Legal Aid Society of Mid-New York |
| Barbara Finkelstein | Executive Director, Legal Services of the Hudson Valley |
| Jeff Seigel | Nassau/Suffolk Law Services |
| Lillian M. Moy | Executive Director, Legal Aid Society of Northeastern New York |
| Michele Sleight | Legal Aid Society of Northeastern New York |
| Wendy Wahlberg | Legal Aid Society of Northeastern New York |
| Deb Collura | Legal Aid Society of Northeastern New York |
| Anne Malak | Legal Aid Society of Northeastern New York |
| Deanne Grimaldi | Legal Aid Society of Northeastern New York |
| Robert Romaker | Legal Aid Society of Northeastern New York |
| Robert Magee | Legal Aid Society of Northeastern New York |
| Peter Racette | Legal Aid Society of Northeastern New York |
| Don Saunders | National Legal Aid and Defenders Association (NLADA) |
| Robin C. Murphy | National Legal Aid and Defenders Association (NLADA) |
| Lisa Wood | American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID) |

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

Committee Co-Chairman Father Pius called the meeting to order.

MOTION

Ms. Reiskin moved to approve the agenda. Committee Co-Chair Valencia-Weber seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Committee Co-Chair Valencia-Weber moved to approve the minutes of the Committee's meeting of July 21, 2014. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Nolan panel moderator, introduced the panelists: Lillian M. Moy, Executive Director, Legal Aid Society of Northeastern, New York; William J. Hawkes, Executive Director, Neighborhood Legal Services; C. Kenneth Perri, Executive Director, Legal Assistance of Western New York; Paul J. Lupia, Executive Director, Legal Aid Society of Mid-New York; and Barbara Finkelstein, Executive Director, Legal Services of Hudson Valley. The panelists briefed the Committee on the difference in leadership the judiciary makes, and how the New York State Task Force is increasing access to justice and what its effects are on legal services across New York. Mr. Perri described the difference the Office of Court Administrations' Judiciary Civil Legal Services (JCLS) funding has made in expansion of access to the civil legal services across New York State. He stated this success is also due to the work of Chief Judge Lippman's civil legal services funding initiatives and the work of the New York State Task Force. Mr. Perri briefed the Committee on the success of his program serving veterans with the use of JCLS funding. Mr. Lupia discussed the success of his program's intake system. Ms. Finkelstein explained how JCLS funding has allowed her program to expand intake services and hire housing attorneys; Mr. Hawkes discussed how JCLS funding preserved services at his program that otherwise would have been lost due to cut backs in LSC funding. Ms. Moy spoke of JCLS funding supporting staff initiatives and program projects; and gave an overview of the benefit, impact and guidance of the Task Force hearings.

Mr. Lupia, Mr. Hawkes and Mr. Perri also briefed the Committee on special programs initiated by Chief Judge Lippman. The programs, Disability Advocacy Project (DAP), Home Ownership Protection Program (HOPP), and State wide Technology, have all expanded access to justice in the state of New York. Mr. Perri and the panelists answered Committee members' questions.

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

Ms. Reiskin wanted to know if the Committee would be continuing its discussion on the subject of performance criteria. Committee Co-Chairman Father Pius stated the Committee would take up the discussion before the January 2015 meeting. There was no other new business to consider.

MOTION

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

VOTE

The motion passed by voice vote.

The Committee meeting adjourned at 6:50 p.m.

2014 Committee Evaluations and 2015 Goals

SUMMARY OF 2014 DELIVERY OF LEGAL SERVICES COMMITTEE EVALUATION RESPONSES

Members either strongly agreed or agreed that:

- Our committee has adequate resources (for example, staff time and expertise) to support its function.
- We receive the meeting agenda and materials sufficiently in advance of the meeting to allow for appropriate review and preparation.
- The minutes of our meetings are accurate and reflect the discussion, next steps and/or action items articulated by the members.
- Our committee membership represents the talents and skills required to fulfill the goals and purposes of the committee. Our committee members come to meetings prepared and ready to contribute.
- Our committee members treat each other with respect and courtesy.
- As a general rule, when I speak I feel listened to and that my comments are valued.
- Our committee meetings are held regularly and with appropriate frequency.

Mixed responses (some strongly agreed/some agreed/some disagreed) that:

- Committee members understand the goals and purpose of our committee; committee members agree on the goals and purpose of the committee. (Direct quotes follow)
 - There is a divergence of views of what the committee should accomplish. This isn't necessarily a problem, but a reality.
 - The charter was amended in 2013 to provide a better focus on the committee's purpose. In 2014 it started looking at performance criteria of grantees (a core responsibility) but this review did not result in any changes or recommendations brought to the full board. This committee needs to set up specific challenges identified by management that need to be addressed.
 - Panels are appropriate for this committee but we also need time to work on performance criteria. Since we judge grantees, we need to take responsibility for continual review to make sure they make sense in the changing legal services world.
- There is alignment between our committee's goals and purposes and the actions taken and/or the decisions made by the committee.
- There is alignment between our committee's goals and purposes and the goals of LSC's Strategic Plan.
- Our committee has responded effectively and appropriately to issues of immediate concern brought before it; our committee has made significant progress on long-term strategic issues related to its goals and purposes.
- The length of our committee meetings is appropriate and respectful of the agenda. We consistently use our meeting time well; issues get the time and attention proportionate to their importance.
 - At times the panel discussions are lengthy and do not lead to an in-depth discussion by board members.
- Our committee meetings are held regularly and with appropriate frequency.

The following are direct quotes:

Members liked:

- The panel presentations are interesting. The board members are treated with respect when speaking.
- Co-chairs provide excellent leadership.
- We have a working list of areas to work on.
- I like the panels.
- The information we receive from the field on the work done by grantees.

Ideas for Improvement:

- A list of specific issues that need to be addressed to improve the delivery of legal services.
- More time for interaction with panels. Smaller panels, shorter presentations.
- Perhaps more discussion of some unclear areas.
- I would like to see us become more action-oriented and do a real review of performance criteria in a reasonable manner.

Future Focus:

- It would be beneficial for management to identify specific issues.
- Training of grantee board members.
- Helping grantees develop strong, informed, responsible boards of directors.
- Performance criteria, especially governance, but in a way that is helpful and not punitive or mandatory towards grantees.
- Developing a better understanding of the quality of legal services offered by grantees.

Two-Year Summary of Committee Presentations

Delivery of Legal Services Committee
Panel Presentations: 2013 & 2014

January 2013: Succession Planning and Leadership Development for LSC funded programs

- Audio/video clips on LRI: <http://lri.lsc.gov/program-administration/leadership/succession-planning/succession-planning-board-presentations>

April 2013: Using assessments of legal needs of the low income population to set priorities for the work of legal services programs

- Audio clips on LRI: <http://lri.lsc.gov/identifying-need/needs-assessments/panel-presentation-lsc-board>

July 2013: Colorado Legal Services Program Presentation

October 2013: Panel Presentation on LSC Performance Criteria

January 2014: LSC's Performance Criteria, Performance Area Four, Criterion 1. Board Governance—Fiscal and Financial Oversight

April 2014: LSC's Performance Criteria, Performance Area Four, Criterion 4. Financial Administration—Challenges of Financial Planning and Budgeting in the Face of Unpredictable and Fluctuating Funding

July 2014: LSC's Performance Criteria, Performance Area Four, Criterion 1 -- Board Governance—Board Composition, Client-Eligible Member Engagement in Board Decision-Making

October 2014: The Difference That Leadership from the Judiciary Makes: How the New York State Task Force on Increasing Access to Justice Affects Legal Services Across New York

Panel Presentation:
LSC Performance Criteria; Performance
Area 4, Criterion 2 - Leadership

LSC's Performance Criteria, Performance Area Four, Criterion 2 -- Leadership
January 23, 2015
Miami, Florida

Jim Cook, Executive Director, Idaho Legal Aid

Jim Cook is the Executive Director of Idaho Legal Aid Services (ILAS), a statewide non-profit law firm serving low income Idahoans. Mr. Cook assumed the position in April 2013 after serving fourteen years as a staff attorney and Deputy Director. He undertook a number of initiatives after assuming the Executive Director position. One project was to update the program bylaws, personnel manual and 26 policy directives. The goal was to make them more clear and equitable while ensuring compliance with LSC requirements. A second effort was to undertake a statewide "listening tour" where he traveled to the program offices and interviewed each employee to learn about their jobs, wants, needs and what he could do to improve the program. Jim concurrently met with the Idaho Supreme Court, Bar Commissioners and other key partners to obtain their input as to how ILAS could do a better job serving Idaho.

ILAS partnered to launch a collaborative fundraising campaign in 2014 entitled Access to Justice Idaho. ILAS also hired a Development Associate in 2014 to increase fundraising capacity. An improving financial situation in 2014 and savings from cuts made in 2013 enabled ILAS to end furloughs, provide all staff a pay increase, increase the program reserve and invest in updated technologies to enable ILAS staff to more effectively serve our client community.

Christine Larson, Executive Director, Three Rivers Legal Services

Christine Larson has served as the Executive Director of Three Rivers Legal Services (TRLS) since March of 2014. TRLS provides free civil legal assistance in seventeen counties of North Florida, a service area which stretches from the Gulf Coast to the Atlantic Coast and north from the City of Gainesville to the Georgia border.

Chris came to TRLS from Florida Rural Legal Services, a very similar multi-county, multi-circuit program serving the residents of south-central Florida, where she served as Deputy Director from 1999 until early 2014. Prior to 1999, she served as a Managing Attorney, Work Group Leader and Staff Attorney at various offices of FRLS. Her thirty- plus year career in legal services has included representation of migrant farm workers, elderly persons and residents of nursing homes, low income tenants, victims of domestic violence and the mentally disabled.

Chris has also served on the Boards of a number of not-for-profit organizations including; Community Cooperative Ministries, Inc., (The Soup Kitchen/Meals on Wheels- a community mission dedicated to ending hunger in Lee County, Florida and the surrounding area), and Partnership in Housing, Inc., (A community group formed for the purpose of constructing and maintaining Pueblo Bonito, a farm worker housing complex in Bonita Springs, Florida).

Chris is a graduate of Temple University School of Law, and holds a BA in Spanish and History from Dickinson College. She has been a member of the Florida Bar since 1978 and of the Pennsylvania Bar since 1977.

**Rick Moyers, Vice President for Programs and Communications,
Eugene and Agnes E. Meyer Foundation**

Rick Moyers is vice president for programs and communications at the Eugene and Agnes E. Meyer Foundation in Washington, DC. Rick has led Meyer's nationally recognized capacity-building work since joining the foundation as a program officer in 2003. From 1999 to 2003, Rick was executive director of the Ohio Association of Nonprofit Organizations, and from 1992 to 1999 he held senior management positions at BoardSource. Rick is a frequent speaker and trainer on nonprofit management and leadership issues. He is a co-author of *Daring to Lead 2011*, a national study of nonprofit executive directors, and the author of *The Nonprofit Chief Executive's Ten Basic Responsibilities*, published by BoardSource in 2006, and "Against the Grain," a popular Chronicle of Philanthropy blog about nonprofit boards. In 2009, Rick was a recipient of the inaugural Grantmaker in Capacity Building Award from the Alliance for Nonprofit Management in recognition of Meyer's longstanding commitment to building the field of nonprofit management and leadership.

Nikole Nelson, Executive Director, Alaska Legal Services Corporation

Nikole Nelson is the Executive Director of Alaska Legal Services Corporation (ALSC), Alaska's only LSC-funded program and the only statewide provider of free civil legal assistance to low-income Alaskans. Nikole oversees ALSC's 11 offices and a 40+ member staff that are scattered across the vast state of Alaska. She joined ALSC in 1998 as a staff attorney shortly after graduating from Willamette University College of Law. Prior to being hired as ALSC's Executive Director in 2010, she managed ALSC's four offices in Alaska's largest judicial district. She is a member of the Alaska Supreme Court Advisory Committee on Access to Civil Justice, the Alaska Bar Association's Pro Bono Services Committee, she serves on the Municipality of Anchorage's Housing and Neighborhood Development Commission, and currently Co-Chair's that Commission's Oversight Subcommittee on Homelessness.

Allison Thompson, former Executive Director, Three Rivers Legal Services

Allison Thompson served as the Executive Director of Three Rivers Legal Services in Gainesville, Florida for seventeen years. She retired from that position in March of 2014. During her leadership, Three Rivers expanded from serving twelve counties to seventeen counties, opened a third office in Jacksonville, and increased the operating budget by two hundred and fifty percent. Thompson came to Three Rivers in December 1996 after serving as Executive Director at Legal Services of the Virgin Islands. During her tenure, Three Rivers grew from only two funding sources to more than thirty funding sources, and increased services to clients.

One of the first black female graduates of the University of Florida College of Law in 1973, Thompson dedicated her legal career to serving the legal needs of the poor including serving as a Reginald Heber Smith attorney at LAW Inc. in Tampa, a staff attorney at Rhode Island Legal Services, and later a regional attorney for the Legal Services Corporation in Pennsylvania.

Thompson's community involvements include the 4As, The African American Accountability Alliance; BASE, or Black AIDS Services & Education Inc.; the PRESERVE, which is an organization housing homeless teens; the Cultural Arts Coalition; and many others. She was also involved in the National Legal Aid and Defender Association, the Clara Gehan Association for Women Lawyers, the Josiah T. Walls Minority Bar Association, the Equal Justice Works/Pro Bono Legal Corps, and the National Association of Public Interest Law. She was the 2008 Alachua County NAACP President's Award recipient and in 2009 received the Eighth Judicial Circuit Bar Association's Tomlinson Professionalism Award.

Anthony Young, Executive Director, Southern Arizona Legal Aid

Anthony Young has been the Executive Director of Southern Arizona Legal Aid, Inc., based in Tucson, Arizona, since 2007. Anthony has worked as a legal aid attorney since 1991, and managed legal aid offices in Nebraska and Arizona. He attended law school at the University of Nebraska College Law. Anthony served as President of the NAACP Yuma Chapter. He currently serves on the Arizona Supreme Court Commission on Access to Justice, the Civil Policy Group of the National Legal Aid and Defender Association, and the Board of Directors for the Pima County Library Foundation and Child and Family Resources in Tucson. He is a recipient of the 2007 State Bar of Arizona Sharon A. Fullmer Legal Aid Attorney of the Year Award. Mr. Lupia is the Executive Director of the Legal Aid Society of Mid-New York, Inc. (LASMNY), a thirteen county LSC funded legal services provider in Central New York. In addition, LASMNY maintains an office in New Paltz for its statewide LSC funded Migrant Farmworker Program.

Criterion 2. Leadership. The program has effective leadership which establishes and maintains a shared sense of vision and mission, and emphasizes excellence, innovation, and achievement of goals, and objectives.

Indicators

Areas of Inquiry

Key program staff, starting with the executive director or chief executive officer, are recognized as the program leaders. They frame a vision and inspire a culture of energy, creativity, innovation, excellence, and achievement, built on trust, confidence, integrity, and loyalty.

The program provides opportunities for the development of a diverse group of leaders.

The program has a succession plan.

Starting with the chief executive officer, are there recognized, positive, and effective leaders in the program?

Is there a shared sense of vision and mission? Is it expressed in written form? Are staff aware of it?

Does the program leadership effectively inspire creativity and innovation, trust, confidence, integrity, and loyalty?

Does the program provide opportunities for staff to develop and exercise leadership skills?

Does the program have a clear and reasonable succession plan? Is it written?

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Board of Directors

Legal Services Corporation Board of Directors &
ABA Standing Committee on Pro Bono & Public Service

Briefing Agenda

Saturday, January 24, 2014

8:00 a.m. to 9:30 p.m.

- I. Introductions
- II. Initiative Update – ABA Standing Committee on Pro Bono and Public Service
- III. Initiative Update – LSC Pro Bono Task Force Implementation Update
 - a. Pro Bono Innovation Fund
 - b. PAI Rule Implementation
- IV. Discussion of Partnering on Rules Change Issues
- V. Next Steps

**Pro Bono Task Force
Implementation Update**

LSC PRO BONO TASK FORCE IMPLEMENTATION UPDATE

JANUARY 2015

I. PRO BONO TASK FORCE OVERVIEW

In March 2011, LSC created a Pro Bono Task Force (“PBTF”) comprised of judges, corporate general counsels, bar leaders, technology experts, leaders of organized pro bono programs, law firm leaders, government lawyers, law school deans, and the heads of legal aid organizations, to consider how to increase pro bono contributions to civil legal aid. The Task Force divided into working groups and spent months conducting interviews, identifying effective practices, and sharing ideas before reporting its findings and recommendations to the LSC Board of Directors.

In October 2012, the Pro Bono Task Force released its findings and recommendations. Since then, LSC has made significant progress in implementing the Task Force’s recommendations. The following provides an update on recent activity.

II. IMPLEMENTING THE TASK FORCE RECOMMENDATIONS

A. Development and Implementation of a Pro Bono Innovation Fund

One of the Task Force’s key recommendations was for LSC to work with Congress to create a Pro Bono Innovation/Incubation Fund. Within two years, this recommendation was implemented and funding awards were announced. On January 17, 2014, the President signed P.L. 133-76, the Consolidated Appropriations Act of 2014, which included \$2.5 million in LSC’s appropriation for the creation of a Pro Bono Innovation Fund. Soon after Congress acted, LSC developed and implemented a competitive grant program with a rigorous review process. The Notice of Funds Availability was issued in April 2014 with full applications due to LSC in June. The first PBIF grant-making cycle was extremely competitive with significant interest from LSC grantees and justice stakeholders. LSC received a total of 79 applications (representing 58 percent of LSC grantees) from 41 different states. The applications requested more than \$15 million with an average request of \$196,000 for project costs.

The applications reflected important trends and challenges for legal services organizations and the pro bono delivery system. These included:

- Rural delivery and remote access. Forty three percent of the applications (34 of 79 applications) sought to improve access for rural clients.
- Technology to expand services and efficiency. Thirty four percent (27 of 79 applications) sought to expand services, streamline volunteer management, or heighten awareness of legal information or volunteer opportunities using technology.
- Leveraging partnerships. Applicants proposed to collaborate with hundreds of partners in the legal services network to reach more clients, target special populations, and recruit new volunteers to pro bono service. This included partnerships with large law firms,

corporate legal departments, law schools, state courts, bar associations, state Access to Justice Commissions, community service providers and health care providers.

Each application was fully vetted by staff and a panel of external pro bono experts and private attorneys. In September 2014, LSC announced the inaugural class of PBIF awardees. The recipients of the **2014 Pro Bono Innovation Fund** are:

Atlanta Legal Aid Society - \$212,837, 24 months

The Atlanta Legal Aid Society (“ALAS”) will integrate pro bono attorneys in all of their offices in the five counties ALAS services to make follow-up contact with clients and provide additional brief services, which has been proven to improve client outcomes significantly.

Colorado Legal Services - \$173,808, 24 months

Colorado Legal Services will collaborate with the Colorado Bar Association to develop different technologies and clinic structures to identify the most effective ways to replicate metropolitan-area pro bono clinics in rural parts of the state.

Legal Aid Foundation of Los Angeles - \$309,451, 24 months

The Legal Aid Foundation of Los Angeles will partner with Neighborhood Legal Services of Los Angeles County and OneJustice to develop the California Pro Bono Training Institute, a statewide online forum of substantive trainings that will provide legal services organizations and pro bono attorneys with high-quality, engaging, and on-demand Continuing Legal Education courses relevant to pro bono work for low-income clients.

Legal Assistance of Western New York (LawNY) - \$314,068, 18 months

In response to New York Chief Judge Jonathan Lippman's two major pro bono initiatives, LawNY is partnering with five other LSC grantees in New York State to create a new pro bono practice group across organizations and coordinate pro bono opportunities among their 33 offices and nine New York law schools, including the Feerick Center for Social Justice at Fordham University School of Law, which staffs the Attorney Emeritus Program for the Office of Court Administration.

Maryland Legal Aid Bureau - \$265,464, 24 months

The Maryland Legal Aid Bureau will establish a single, statewide Veterans Hotline, staffed by qualified pro bono attorneys who will be recruited and trained throughout the state to effectively and efficiently meet the legal needs of Maryland’s low-income veterans population.

Montana Legal Services Association - \$141,087, 24 months

Montana Legal Services Association’s project will develop a statewide technology platform targeting barriers to legal service delivery for solo practitioners, small firms, government attorneys, law students, and paralegals.

Northwest Justice Project - \$211,120, 24 months

The Northwest Justice Project will develop a comprehensive set of resources to support pro bono attorneys in providing significant assistance beyond brief advice or limited action in unfamiliar

areas of law, systematically increasing the level of extended services provided to low-income clients.

Philadelphia Legal Assistance - \$240,305, 24 months

The Philadelphia Legal Assistance project will use the network of existing neighborhood public health centers to create a pro bono, law-student-driven Medical-Legal Community Partnership that will improve access to comprehensive, coordinated health and legal care.

Prairie State Legal Services, Inc. - \$158,815, 18 months

Prairie State Legal Services will partner with Illinois Legal Aid Online to recruit and train pro bono attorneys in suburban areas and other 'collar counties' surrounding Chicago in an effort to provide legal services for single parents in need of family law assistance.

Utah Legal Services - \$190,000, 24 months

Utah Legal Services is partnering with the Self-Help Center of the Utah State Courts, local Utah State Bar Pro Bono committees, Timpanogos Legal Center, and volunteer law students and attorneys to provide a continuum of service for clients representing themselves in family law matters in rural areas in Utah. These organizations will expand their collaboration by creating an online meeting and document-sharing platform that connects clients with on-call volunteer attorneys.

Volunteer Lawyers Project of the Boston Bar Association - \$158,045, 24 months

The Volunteer Lawyers Project of the Boston Bar Association will test and prototype "pop-up" clinics, a customized virtual law firm platform, and cost-effective videoconferencing to allow expert bankruptcy volunteers in Boston to train and mentor pro bono attorneys in parts of the state where no pro bono bankruptcy attorneys are available.

The projects and organizations represent a diverse range of approaches to pro bono delivery, leveraging significant resources to expand services and pressing client needs.

- The grantees are matching Pro Bono Innovation Fund dollars with an additional \$1.2 million in other funds and in-kind contributions to support their projects.
- Nine projects will address rural and remote delivery using new technology and partnerships to bring metropolitan-based lawyers and other volunteers to rural and hard-to reach communities.
- Nine projects are focused on statewide or regional service delivery to engage more lawyers in service and to better serve special populations including seniors and veterans.
- Five projects will implement new technologies including the development of a virtual law firm platform, on-demand trainings and online forms to streamline client services and volunteer management.

Update on 2014 Projects

The projects are currently in the initial planning stages of their grants, having received their initial payment from LSC in early November. Those with subgrants are finalizing the process to establish their projects with their subgrantees. And all of the projects are in planning meetings with their partners with several grantees hiring for new project positions and seeking additional funding to leverage and sustain their work. One notable example is:

- Colorado Legal Services has received a substantial private donation of \$26,000 to further leverage Pro Bono Innovation Fund funds to promote rural pro bono clinics. The donor, the widow of a well-known jurist, is a long-time friend of Colorado Legal Services and access to justice issues. She read the Denver Post article about the Pro Bono Innovation Fund grant and reached out with her generous offer to support the initiative.

Next Steps

Staff is preparing for the second round of grants. In FY 2015, Congress increased the appropriation for the PBIF from \$2.5 million to \$4 million. The team is currently in the process of developing a Letter of Intent to Apply for Funding process with a planned Federal Register notice release in late January 2015.

Other staff activities include:

- Hosting a Pro Bono Innovation Fund Affinity Group and Dinner at the Annual TIG conference in San Antonio, TX.
- Participating in the Pro Bono Work Group for session development at the Annual Equal Justice Conference in Austin, TX in May 2015. In addition to LSC's planned conference session on the Pro Bono Innovation Fund, two PBIF grantees have been selected to highlight their projects and experience in separate conference sessions. LSC staff are also planning to convene all Pro Bono Innovation Fund grantees at the conference for a half-day of meetings and knowledge-sharing about their projects.

B. Revision of LSC's Private Attorney Involvement Regulation

The Pro Bono Task Force also recommended that LSC revise its Private Attorney Involvement (PAI) regulation to encourage pro bono. This recommendation was also implemented within two years. Following extensive outreach to grantees and other stakeholders and multiple rounds of public comments, LSC published a final rule revising 45 C.F.R. Part 1614 on October 15, 2014. 79 Fed. Reg. 61770 (Oct. 15, 2014). The new regulation became effective November 14, 2014. Since that time, LSC has conducted outreach to its grantees regarding the new regulation, including a well-attended session at the November 2014 NLADA meeting, and has responded to a number of questions from grantees. In 2015, the Office of Program Performance will revise the PAI section of the competition application to reflect the changes in the regulation. Additionally, the Office of Compliance and Enforcement is revising the oversight of PAI to address the rule changes. LSC will also revise grantee reporting requirements that are part of LSC's annual Grant Activity Reporting requirements.

C. Implementation Steering Committee and Subcommittees

To oversee the implementation of the remainder of the Task Force's recommendation, the LSC Board of Directors established a Steering Committee and collaborated with the ABA's Pro Bono Committee to outline the scope of the subcommittees. The subcommittees' work has been on hold to focus on the design, rollout, and implementation of the Pro Bono Innovation Fund as well as the adoption of the new PAI regulation. In 2015, there will be a renewed emphasis on the work of the subcommittees.

1. Pro Bono Toolkit, Technology, and Effectiveness Implementation Subcommittee;
2. Pro Bono Culture Change Subcommittee;
3. Pro Bono Rules Change Implementation Subcommittee

1. Toolkit, Technology, and Effectiveness Implementation Subcommittee

- The pro bono web page is up and running with approximately 40 examples of best practices. We have also included links to best practices listed on the Pro Bono Institute and APBCo websites. <http://www.lsc.gov/pro-bono-programs-best-practices>.
- LSC is filling a new researcher/writer position to work on adding content and marketing the Pro Bono web page.

2. Rules Change Implementation Subcommittee

- The rules change charts have been updated. LSC will be partnering with the ABA Standing Committee on Pro Bono & Public Service implement this recommendation.

3. Culture Change Implementation Subcommittee

- Promotion of Access to Justice Commissions in States Currently Without Commissions
 - During the work of the Rules Change Subcommittee, the group found that those states with the fewest rules or policies that promote and foster pro bono did not have an Access to Justice Commission.
 - In 2015, LSC plans to work with Steve Grumm from the ABA to identify states where the ABA and LSC, working with other stakeholders, could help initiate the creation of Access to Justice Commissions in states that do not have one.

State Rules Inventory

| State | CLE Rules | CLE Requirements | Mandatory Pro Bono Reporting | Mandatory State Bar | Emeritus Rules | Judges & Courts: State Adoption of ABA Model Code of Judicial Conduct Rule 3.7 | Comparison to Model Rule 6.1 | Government Attorneys | % of attorneys doing pro bono | Avg. hours of pro-bono/attorney | Hours of pro bono work/yr | Law student Practice Rules | Unbundling/ Comparison to Model Rule 6.5 |
|------------|---------------------------------------------------------------------------------------------------------|--------------------------------------------------|------------------------------------------------------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|---------------------------------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| ALABAMA | No rules. | 12 hours per year | No reporting. | Yes | Minimum age: No. Years of practice: No. Status: Inactive. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: Required Dues Waived: Reduced. | Has not adopted a rule similar to 3.7. *Access to Justice Commission exists in state | *Same as original 1983 language. *No specific goal of annual number of hours. | Attorney general's office does not allow attorneys to practice pro bono. | | | | If consent obtained by client, law students with supervision can serve as legal interns after having completed four semesters at law school. Student must be introduced to the court by a practicing attorney, be certified by the dean of the law school, and be registered as a law student with the Secretary of the Board of Commissioners. | Adopted Rule 6.5 |
| ALASKA | No rules. | 12 hours per year | No reporting. | Yes | Minimum age: No Years of practice: No. Status: Retired or inactive. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: Legal Service organization must provide malpractice coverage. Dues Waived: Yes. | Has not adopted a rule similar to 3.7. *Access to Justice Commission exists in state | *Same as 2002 revision. *Goal of 50 hours of pro bono/yr. | Guidance issued by AK AG in 2005 allows all Dep. Of Law Staff to engage in pro bono. | | | | If consent obtained by client, law students who are enrolled in an ABA accredited law school can serve as legal interns after having completed 1/2 of coursework required for graduation. Students must file a written request with a letter from an attorney in order to be selected. | Adopted Rule 6.5 |
| ARIZONA | *Max 5 hours per year can be completed with pro bono work. * 5 hours of pro bono work = 1 credit. | 15 hours per year | *Voluntary reporting *Response rates: 31% in '95; 35% in '96. | Yes | Minimum age: No. Years of practice: 5 Status: Retired or inactive or unable to practice in AZ. Direct supervision: No. Out of state license: Yes. Malpractice insurance mentioned in the rule: Disclose existence and extent of malpractice coverage. Dues Waived: Yes. | Does not have rule similar to 3.7, but has permissive language that allows court employees to do pro bono work. *Access to Justice Commission exists in state. | *Different language. *Goal of 50 hours of pro bono/yr. | Yes, staff attorneys may engage in pro bono work. | | | | Student must complete three semesters at an AZ law school or ABA approved law school, must certify in writing that student has read the rule of professional responsibility, and must be supervised by AZ licensed atty. Dean of law school must certify that student is in good standing and has taken courses in civil, criminal, and court procedure. Must not ask for or receive compensation. | Adopted Rule 6.5 |
| ARKANSAS | No rules. | 12 hours per year | No reporting. | No | No emeritus rules as of June 2014. | *Similar language to rule 3.7. *Access to Justice Commission exists in state. | *Same as 2002 revision. *Goal of 50 hours of pro bono/yr. | No information available. | | | | In order to be eligible, student must be enrolled in ABA approved law school, have completed a course in professional responsibility, must be certified by the dean of the law school and the supervising attorney, and must neither ask for nor receive compensation. | Adopted Rule 6.5 |
| CALIFORNIA | No rules. | 25 hours per 3 years | No reporting. | Yes | Minimum age: No Years of practice: At least 3 & 3 of the last 5. Status: Inactive. Direct supervision: Adequate supervision. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes. | Does not have rule similar to 3.7, but has permissive language that allows court employees to do pro bono work. *Access to Justice Commission exists in state. | *Different language. *Goal of 50 hours of pro bono/yr. | 1984 memorandum by CA attorney general John Van de Kamp encouraged lawyers employed by the California Attorney General to participate in legal service programs. | | | | In order to be eligible, student must have successfully completed 1 full year of studies at a law school accredited by the ABA. Student must have either successfully completed or be currently enrolled in an academic course in evidence & civil procedure | Similar Rule. |
| COLORADO | *Max. 9 out of 45 units every 3 yrs can be completed with pro bono work. *5 billable hours = 1 unit. | 45 hours per 3 years, 50 minutes per credit hour | No reporting. | No | Minimum age: No. Years of practice: No. Status: Inactive for in-state license. Active or inactive for out-of-state license. Direct supervision: No. Out of state license: Yes. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes (out-of-state attorneys pay one time administrative fee \$50) | *Identical language to rule 3.7. *Access to Justice Commission exists in state. | *Similar to 2002 revision *Goal of 50 hours of pro bono/yr. | No information available. | | | | In order to be eligible, student must be enrolled at an ABA accredited law school and have completed 2 years of legal studies. The student must be certified by the dean and must be introduced to the court by a lawyer. Student shall not receive compensation for services performed. | Adopted Rule 6.5 |

| State | CLE Rules | CLE Requirements | Mandatory Pro Bono Reporting | Mandatory State Bar | Emeritus Rules | Judges & Courts: State Adoption of ABA Model Code of Judicial Conduct Rule 3.7 | Comparison to Model Rule 6.1 | Government Attorneys | % of attorneys doing pro bono | Avg. hours of pro-bono/attorney | Hours of pro bono work/yr | Law student Practice Rules | Unbundling/ Comparison to Model Rule 6.5 |
|----------------------|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| CONNECTICUT | No rules. | No requirement but encouraged to maintain knowledge and skill. | Voluntary reporting on annual electronic attorney registration. | No | Minimum age: No. Years of practice: No. Status: Active. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: Provided by agency Dues Waived: Occupational tax waived if only work is pro bono. | *Identical language to rule 3.7 *Access to Justice Commission exists in state. | *Same as original 1983 language. *No goal. | No information available. | 2012: 19,300 attys reported 2013: 17,350 attys reported 2014: 18,089 attys reported | | | In order to be eligible, student must have completed 2 semesters of law school at an ABA approved law school. Student must be introduced to the court by supervising attorney. | Adopted similar rule to MR 6.5; Additional language and requirements referring to informed consent |
| DELAWARE | *Max 6 out of 24 credits every 2 years can be completed with pro bono work. *6 hours of pro bono work = 1 credit. | 24 hours per 2 years | No reporting. | No | Minimum age: 65 or waived from Supreme Court. Status: Inactive. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes. | Different language to rule 3.7. Policies and rules allow court employees to do pro bono work. *Access to Justice Commission exists in state. | *Similar to original 1983 language. *No goal. | No information available. | | | | In order to be eligible, student must be a third year law student at an ABA accredited law school, must be certified by the dean of the law school, and the student may not accept any compensation. | Adopted Rule 6.5 |
| DISTRICT OF COLUMBIA | No rules. | No requirement but encouraged to maintain competence to practice law. | *Voluntary Reporting: Starting in 2011, with the support of the D.C. Access to Justice Commission and the D.C. Bar Pro Bono Program, the District of Columbia Courts invited attorneys to self-report their pro bono contributions. | Yes | Minimum age: No. Years of practice: No. Status: Inactive. Direct supervision: No. Out of state licensed attorney yes. Out of state license: Exception for first 90 days if working for legal aid. Malpractice insurance mentioned in the rule: No mention. Dues Waived: No. | *Identical language to rule 3.7 *Access to Justice Commission exists in state | Similar to original 1983 language and goal of 50 hours. | No information available. | 2013: 4,253 attorneys performed 50 hours or more of pro bono service. Of those, 2,562 performed 100 or more hours of pro bono service. | | | In order to be eligible, student must be enrolled in a law school approved by ABA and the admissions committee of the court. Student must have successfully completed legal studies amounting to 41 semester hours or the equivalent. Student must be certified by the dean of the law school and be registered with the Unauthorized Practice of Law Committee at the court. | Adopted Rule 6.5 with additional comment |
| FLORIDA | No rules. | 30 hours per 3 years. 50 minute credit hours | *Mandatory Reporting on dues statement *Failure to report is treated as a disciplinary offense | Yes | Minimum age: No. Years of practice: 10 out of last 15. Status: Retired. Direct supervision: Yes. Out of state license: Yes. Malpractice insurance mentioned in the rule: No mention. Dues Waived: No. | *No adoption of 3.7, but language permissive of pro bono. *Utilizes judges on pro bono as members of regional committees. | *Different language. *Goal of 20 hours of pro bono/yr. | 1989 AG memo allows public defenders to engage in pro bono work, no information on staff attorneys. Does not apply to government attorneys who are prohibited from providing legal services by constitution, statute, or regulation. | 2009: 51% 2010: 52% 2011: 51% 2012: 51% 2013: 51% | 2009: 22 2010: 22 2011: 23 2012: 22 2013: 22 | 2009: 1,545,157 2010: 1,614,676 2011: 1,681,775 2012: 1,695,466 2013: 1,740,019 | Law student must have attended ABA approved law school for at least 4 semesters or 6 quarters; law student must pay \$75 or \$150 dollar fee and receive letter of clearance from FL Board of Bar Examiners; student must receive no compensation and must be approved by the dean of the law school. | No |
| GEORGIA | No rules. | 12 hours per year | *Voluntary reporting on dues statement and on webpage. *Response rates: 31% in '95; 35% in '96, 8% in '98. | Yes | Minimum age: 70 Years of practice: 25 Status: Retired. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes. | *Has NOT adopted a rule similar to 3.7. *Access to Justice Commission is organized by state bar association. | *Similar to 1993 language. *Goal of 50 hours of pro bono/yr. | | | | | In order to be eligible, student must be a third year law student practicing under the supervision of a practicing attorney. Student must be enrolled and in good standing in a law school in the state and the practicing attorney should ensure that the student is covered by malpractice insurance. | Adopted Rule 6.5 |
| HAWAII | No rules. | 3 hours per year. Encouraged to complete an additional 9 hours. | Mandatory Reporting. | Yes | Minimum age: No Years of practice: No. Status: Inactive. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: LS must disclose existence and extent of coverage. Dues Waived: Yes - reduced to inactive rate. | *Similar language to rule 3.7. *Access to Justice Commission exists in state. | *Similar to 1993 language. *Goal of 50 hours of pro bono/yr. | Hawaii Senate Bill 1010 signed into law in 2013; AG + deputies can provide pro bono work. | 2009: 50% 2010: 47% 2011: 43% 2012: 41% | 2009: 32 2010: 62 2011: 62 2012: 69 | 2009: 231,189 2010: 232,325 2011: 196,351 2012: 181,490 | In order to be eligible, student must have completed 1/3 of the requirements for graduation at the University of Hawaii School of Law. Student must be certified by the dean of the law school and the applicant must be enrolled in a clinical program at the University of Hawaii | Adopted Rule 6.5 |

| State | CLE Rules | CLE Requirements | Mandatory Pro Bono Reporting | Mandatory State Bar | Emeritus Rules | Judges & Courts: State Adoption of ABA Model Code of Judicial Conduct Rule 3.7 | Comparison to Model Rule 6.1 | Government Attorneys | % of attorneys doing pro bono | Avg. hours of pro-bono/attorney | Hours of pro bono work/yr | Law student Practice Rules | Unbundling/ Comparison to Model Rule 6.5 |
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| IDAHO | No rules. | 30 hours per 3 years. | No reporting. | Yes | Minimum age: No. Years of practice: 10 of last 15. Status: Retired or inactive. Direct supervision: Yes. Out of state license: Yes. Malpractice insurance mentioned in the rule: Legal Service organization must provide malpractice coverage. Dues Waived: Reduced. | Has NOT adopted a rule similar to rule 3.7. | *Similar to 2002 revision *Goal of 50 hours of pro bono/yr. | No information available. | | | | In order to be eligible, student must be enrolled in an ABA approved law school and have completed 2/3 of the course of study. | Adopted Rule 6.5 |
| ILLINOIS | No rules. | 30 hours per 2 years | Mandatory Reporting on dues statement. | No | Minimum age: No Years of practice: No. Status: Retired or inactive or licensed out of state. Direct supervision: No. Out of state license: Yes. Malpractice insurance mentioned in the rule: LS must disclose existence and extent of coverage. Dues Waived: Yes for retired, reduced for inactive. | Does not have rule similar to 3.7, but has permissive language that allows judges to participate in and promote pro bono programs. *Access to Justice Commission exists in state. | No similar rule in the Professional Rules. Preamble to Professional Rules states the rationale is that this responsibility is not appropriate for disciplinary rules because it is not possible to articulate an appropriate disciplinary standard regarding pro bono and public service. | Office attorneys cannot engage in pro bono work. | 2009: 32% 2010: 30% 2011: 34% 2012: 34% 2013: 34% | 2009: 26 2010: 27 2011: - 2012: 24 2013: 23 | 2009: 2,197,041 2010: 2,328,770 2011: 2,255,024 2012: 2,142,527 2013: 2,098,472 | A law student must attend ABA accredited school, be certified by the law school dean and having completed 3/5 of the total hourly credits required for graduation and in good academic standing, may appear in court under the supervision of a member of the bar. | Adopted Rule 6.5 |
| INDIANA | No rules. | 36 hours per 3 years, 6 credits per year | Reporting required w/ attorney annual registration. | No | No emeritus rules as of June 2014. | *Similar language to rule 3.7. *Utilizes judges on pro bono as members of regional committees. Access to Justice Commission exists in state. | *Same as original 1983 language. *No goal. | No information available. | | | | Law student must have attended ABA accredited school, have completed 1/2 of law school classes, have completed or be enrolled in a legal ethics course, and have the permission of the law school dean before appearing in court with supervision. | Adopted Rule 6.5 |
| IOWA | No rules. | 15 hours per year | No reporting. | No | Minimum age: No Years of practice: No. Status: Retired/reiring. Direct supervision: General supervision. Out of state license: Yes. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Waived. | Similar language to rule 3.7. | *Same as 2002 language. *Goal of 50 hours of pro bono/yr. | No information available. | | | | In order to be eligible, student must be enrolled in a reputable law school and must be certified by the dean of the law school. Student must have completed 3 semesters (2 semesters to appear at an administrative hearing) and must not receive compensation. | Adopted Rule 6.5 |
| KANSAS | No rules. | 12 hours per yer (50 minute hours) | No reporting. | No | Minimum age: No. Years of practice: No. Status: Retired or inactive. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes for retired attorneys age 66 or over on or before July 1. | Similar language to rule 3.7. *Access to Justice Commission exists in state. | *Same as original 1983 language. *No goal. | No information available. | | | | Law students assigned only to those attorneys/agencies requesting their services. Legal interns must neither ask for nor receive compensation. Law students must have completed 60 hours of legal studies and have paid the required fee and be enrolled in an ABA accredited law school. Student must be certified by law school dean. Client must give written consent to student representation. Student must have signed writing agreeing to follow professional rules. | No |

| State | CLE Rules | CLE Requirements | Mandatory Pro Bono Reporting | Mandatory State Bar | Emeritus Rules | Judges & Courts: State Adoption of ABA Model Code of Judicial Conduct Rule 3.7 | Comparison to Model Rule 6.1 | Government Attorneys | % of attorneys doing pro bono | Avg. hours of pro-bono/attorney | Hours of pro bono work/yr | Law student Practice Rules | Unbundling/ Comparison to Model Rule 6.5 |
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| KENTUCKY | No rules. | 12.5 hours per year | *Voluntary reporting on dues statement. *Response rates: 12% in '96; 15% in '98; 16% in '07 | Yes | No emeritus rules as of June 2014. | Has NOT adopted a rule with language similar to rule 3.7 *Access to Justice Commission exists in state | *Language similar to 1993 revision. *Goal of 50 hours of pro bono work/yr. | No information available. | | | | In order to be eligible, student must be enrolled at an ABA approved law school and have completed 2/3 of the academic requirement for graduation. Student must receive written approval by Chief Justice of Supreme Court of Kentucky, the dean of the law school, the director of the program, and student must be supervised by a member of the state bar. | Adopted Rule 6.5 |
| LOUISIANA | No rules. | 12.5 hours per year | *Voluntary Reporting, full page form enclosed with dues statement. *Response rates 8-9% in 1998; 15% in 2001; 11% in 2002; 11% in 2003; 11% in 2004; 11% in 2005; 10% in 2006. | Yes | No emeritus rules as of June 2014. | Has NOT adopted a rule with language similar to rule 3.7. *Access to Justice Commission is organized through state bar association. | *Similar language to 1993 revision *Goal of 50 hours of pro bono work/yr. | 2004 Pro Bono Pilot Project allows AG attorneys to engage in pro bono civil legal work. | | | | In order to be eligible, student must be enrolled in an ABA approved law school and have completed 4 semesters of legal studies. The student must have completed a course in legal ethics, and must be introduced to the court by a member of the state bar. The student must be certified by dean of law school and cannot accept any compensation for services performed. | Adopted Rule 6.5 |
| MAINE | No rules. | 11 hours per year | No reporting. | No | Minimum age: No. Years of practice: No. Status: Retired or inactive. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Reduced. | *Has NOT adopted a rule with language similar to rule 3.7. *Access to Justice Commission exists in state. | *Different language. *No goal. | No information available. | | | | In order to be eligible, student must be enrolled in an ABA approved law school and have completed 4 semesters of legal studies. The student must be certified by the dean of the law school. The student must not accept any compensation. Student gives signed writing that he/she understands bar rules and court rules. | Adopted similar rule to MR 6.5; Substitutes "aware" for "knows" and adds additional Comment |
| MARYLAND | No rules. | Not required | Mandatory Reporting. Failure to report leads to loss of license, but can be reinstated if report filled out. | No | Minimum age: No. Years of practice: No. Status: Retired or inactive. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Waiver of client protection fund. | *Similar language to rule 3.7. *Utilizes judges on pro bono as members of regional committees. *Access to Justice Commission exists in state. | *Similar to 1993 language. *Goal of 50 hours of pro bono/yr. | State agencies have pro bono policies in place to assist govt attys to avoid conflict of interest. | 2009: 54% 2010: 59% 2011: 58% 2012: 57% | 2009: 33 2010: 34 2011: 32 2012: 31 | 2009: 1,139,866 2010: 1,181,028 2011: 1,163,859 2012: 1,162,232 | In order to be eligible, the student must be enrolled in ABA accredited law school and have completed 1/3 of total credit hours. The student must be certified by the dean of the law school, be familiar with the Maryland Lawyers' Rules of Professional Conduct and the Maine Rules of Civil Procedure. | Adopted Rule 6.5 |
| MASSACHUSETTS | No rules. | Not required | No reporting. | No | Minimum age: No. Years of practice: No. Status: Retired/inactive. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes for retired; reduced for inactive. | *Has not adopted a rule similar to 3.7, but has permissive language that allows court employees to do pro bono work. It also allows judges to participate in and promote pro bono programs. *Access to Justice Commission exists in state. | *Similar to 1993 revision. *Goal of 25 hours of pro bono/yr. | No information available. | | | | In order to be eligible, student must be a senior law student (having completed next to last year of study) Student must have completed or be enrolled in evidence or trial practice. Student must be certified by the dean. | Adopted Rule 6.5 |
| MICHIGAN | No rules. | Not required | No reporting. | Yes | No data on Michigan. | Has NOT adopted a rule with similar language to rule 3.7. *Access to Justice Commission is organized through state bar association. | *Different language. *Goal of 30 hours/yr. | No information available. | | | | In order to be eligible, student must be ABA accredited law school and have completed the first year. Student must have received a passing grade in law school courses. Student can work in law school clinics, legal aid, offices, or government atty offices. Student must have signed writing agreeing to follow Professional Rules. Must be supervised by licensed atty. | Adopted Rule 6.5 |

| State | CLE Rules | CLE Requirements | Mandatory Pro Bono Reporting | Mandatory State Bar | Emeritus Rules | Judges & Courts: State Adoption of ABA Model Code of Judicial Conduct Rule 3.7 | Comparison to Model Rule 6.1 | Government Attorneys | % of attorneys doing pro bono | Avg. hours of pro-bono/attorney | Hours of pro bono work/yr | Law student Practice Rules | Unbundling/ Comparison to Model Rule 6.5 |
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| MINNESOTA | •Max 6 out of 45 units every 3 yrs can be completed with pro bono work. •6 hours = 1 credit. | 45 hours per 3 years | No reporting. | No | Minimum age: No. Years of practice: No. Status: Retired. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes. | •Similar language to rule 3.7. •Access to Justice Commission is organized through state bar association. | •Same as 2002 revision. •Goal of 50 hours of pro bono/yr. | State bar assoc has encouraged govt agencies to establish pro bono policies for govt attys. | | | | In order to be eligible, student must be enrolled in law school in Minnesota, completed two semesters must be certified by dean of the law school as being in good academic standing; student must maintain confidentiality, be identified as a student, and must be accepted by client. | Adopted Rule 6.5 |
| MISSISSIPPI | No rules. | 12 hours per year | •Mandatory Reporting •Failure to report is a disciplinary offense. | Yes | Minimum age: No. Years of practice: No. Status: Inactive or licensed in other states. Direct supervision: Yes. Out of state license: Yes. Malpractice insurance mentioned in the rule: Required. Dues Waived: No. | •Has not adopted rule 3.7, but has permissive language that allows court employees to do pro bono work. •Access to Justice Commission exists in state | •Different language. •Goal of 20 hours of pro bono/yr. | No information available. | 2009: 53% 2010-11: 44% 2011-12: - 2012-13: - | 2009: 24 2010-11: 14 2011-12: 15 2012-13: 15 | 2009: 183,016 2010-11: 122,430 2011-12: 134,409 2012-13: 120,469 | Law student must be enrolled in law school in the state. Student must have completed 2/3 of required number of hours for graduation or if enrolled in clinical education course, has completed 1/2 of required number of hours for graduation. Supervising attorneys are licensed to practice in the state and have practiced for at least 3 years. | Adopted Rule 6.5 |
| MISSOURI | No rules. | 15 hours per year (50 minute hours) | No reporting. | Yes | No emeritus rules as of June 2014. | Similar language to rule 3.7. | •Same as original 1983 language. •No goal. | No information available. | | | | In order to be eligible, student must be enrolled in an ABA approved law school and must have completed legal studies amounting to 1/2 of the required credits for graduation. Student must file an application and pay the prescribed fee. The student must be certified by the dean of the law school and cannot receive compensation. The student must be familiar with the rules of professional conduct. | Adopted Rule 6.5 |
| MONTANA | No rules. | 15 hours per year | •Voluntary reporting •2010: 60% •2013: 70% | Yes | Minimum age: No. Years of practice: 10 of last 15. Status: Retired/inactive and must complete 25 hours of pro bono/yr Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes. | Has not adopted rule 3.7, but has permissive language that permits judges to participate in and promote pro bono programs. Access to Justice Commission exists in state | •Similar to 2002 revision. •Goal of 50 hrs/yr. | Attorneys in AGO permitted to practice pro bono. | 2013: 70% | | 2013: 157,463 | Eligible law students must be enrolled in ABA approved law school, have completed 2/3 of total credit hours, be certified by the dean of the law school as being of good character and competent legal ability. The student must be introduced to the court by an attorney, must not receive any compensation, and must certify familiarity with the code of Professional Responsibility. | Adopted Rule 6.5 |
| NEBRASKA | No rules. | 10 hours per year | No reporting. | Yes | No emeritus rules as of June 2014. | Similar language to rule 3.7. | •Similar to 2002 revision. •No goal. | No information available. | | | | Eligible student students must be enrolled in ABA approved law school, must have senior standing, be certified by the dean of the law school, receive affirmative consent of the court and be introduced to the court by a practicing attorney. | Adopted Rule 6.5 |
| NEVADA | No rules. | 12 hours per year | Mandatory Reporting form sent w/dues statement. | Yes | Minimum age: No. Years of practice: No. Status: Inactive in state, active or inactive out of state. Direct supervision: No. Out of state license: Yes. Malpractice insurance mentioned in the rule: Disclosure if they have coverage. Dues Waived: Based on inactive status. | •Similar language to rule 3.7. •Utilizes judges on pro bono as members of regional committees. •Policies and rules allow court employees to do pro bono work. •Access to Justice Commission exists in state | •Similar to 2002 revision •Goal of 20 hrs at no fee or 60 hours at reduced fee. | No information available. | 2009: 43% 2010: 31% 2011: - 2012: 34% 2013: 33% | 2009: 44 2010: 48 2011: - 2012: 50 2013: 47 | 2009: 115,443 2010: 140,601 2011: - 2012: 139,647 2013: 122,648 | Students working on pro-bono cases or for government or not-for-profit entities must be enrolled at an accredited ABA law school, be supervised by a member of the state bar, be certified by the dean, and have completed 30 or 45 semester credit hours depending on activities of law student in court. Student must apply for certification from state bar. | Adopted Rule 6.5 |

| State | CLE Rules | CLE Requirements | Mandatory Pro Bono Reporting | Mandatory State Bar | Emeritus Rules | Judges & Courts: State Adoption of ABA Model Code of Judicial Conduct Rule 3.7 | Comparison to Model Rule 6.1 | Government Attorneys | % of attorneys doing pro bono | Avg. hours of pro-bono/attorney | Hours of pro bono work/yr | Law student Practice Rules | Unbundling/ Comparison to Model Rule 6.5 |
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| NEW HAMPSHIRE | No rules. | 12 hours per year | No reporting. | Yes | Minimum age: No. Years of practice: No. Status: Inactive. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Reduced at least 90%. | *Identical language to rule 3.7. *Access to Justice Commission exists in state. | *Similar to 2002 revision. *Goal of 30 hrs/yr | No information available. | | | | In order to be eligible, law students must be enrolled full-time in ABA approved law school, have completed 4 semesters or 2 semesters plus a clinical law course and the student must be certified by the dean or a faculty member. | Adopted similar rule to MR 6.5; Additional language and requirements and substitutes "one time consultation" for "short-term limited legal services" |
| NEW JERSEY | No rules. | 24 hours per 2 years (50 minute hours) | No reporting. | No | Minimum age: No. Years of practice: No. Status: Active out of state license only. Direct supervision: No. Out of state license: Yes. Malpractice insurance mentioned in the rule: No mention. Dues Waived: No | *Has not adopted rule 3.7, but has permissive language that allows court employees to do pro bono work. | *Same as original 1983 language. *No goal. | No information available. | | | | In order to be eligible, law student must be a 3-L at an ABA approved law school appearing before court through a program approved by the state Supreme Court. | Adopted Rule 6.5 |
| NEW MEXICO | No rules. | 12 hours per year | Mandatory Reporting form provided with dues statement. | Yes | Minimum age: No. Years of practice: No. Status: Inactive in state; active or inactive if licensed in another state Direct supervision: No. Out of state license: Yes. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Reduced | *Has not adopted rule 3.7, but has permissive language that utilizes judges on pro bono as members of regional committees. *Access to Justice Commission exists in state. | *Similar to 1993 language. *Goal of 50 hrs/yr. | No information available. | 2009: 67% 2010: 65% 2011: - 2012: - 2013: 57% | 2009: 31.5 2010: 31.2 2011: - 2012: - 2013: 27.3 | 2009: 275,733 2010: 271,261 2011: - 2012: - 2013: 249,888 | In order to be eligible, student must be a full-time student at a University of New Mexico law school who has received a passing grade in law school courses and has aggregated 30 or more semester hours. Student must be certified by the dean of the law school. | Adopted Rule 6.5 |
| NEW YORK | *Max 10 out of 24 units every 2 yrs can be completed with pro bono work. *1 hour of eligible pro bono legal service = 1 credit. | 24 hours per 2 years | Mandatory Reporting. | No | Minimum age: 55 Years of practice: 10 Status: Retired, must commit to 30 hrs/yr Direct supervision: Yes. Out of state license: No. Malpractice insurance mentioned in the rule: Provided. Dues Waived: Yes. | *Different language. *Utilizes judges on pro bono as members of regional committees. Access to Justice Commission exists in state | *Different language. *Goal of 50 hrs/yr. *Students must complete 50 hours of pro bono in order to obtain a license. | Guidance issued by NY AG in 2002 to allow NYS Department of Law lawyers to engage in pro bono. | | 66 hours according to 2013 ABA survey | | *In order to be eligible to practice as a law student, a student must have completed at least 2 semesters of law school and be supervised by an attorney. Authorized activities are limited. | Adopted similar rule to MR 6.5; Additional language and requirements |
| NORTH CAROLINA | No rules. | 12 hours per year | No reporting. | Yes | Minimum age: No. Years of practice: No. Status: Inactive. Direct supervision: Yes. Out of state license: Yes. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes. | *Has NOT adopted rule 3.7. *Access to Justice Commission exists in state. | Similar to 2002 language and Goal of 50 hours | No information available. | | | | In order to be eligible, student must be enrolled in a law school approved by the Council of NC State Bar. The student must have completed 3 semesters, be certified by a representative of the law school who is authorized by the dean of the law school, and receive no compensation for services performed. | Adopted Rule 6.5 |
| NORTH DAKOTA | *Max 3 every year can be completed with pro bono work. | 45 hours per 3 years | No reporting. | Yes | Minimum age: No Years of practice: Active 5 of past 10 years. Status: Volunteer practice only. Direct supervision: Yes. Out of state license: Yes. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes. | Similar language to rule 3.7. | *Similar to 2002 language. *No goal. | No information available. | | | | In order to be eligible, law student must be enrolled in law school approved by the ABA, have completed 4 semesters of legal studies, be certified by the dean of the law school, be introduced to the court by a practicing attorney, and must neither ask nor receive compensation. | Adopted similar rule to MR 6.5; Additional language and requirements |
| OHIO | *Max 6 out of 24 units every 2 yrs can be completed with pro bono work. *6 hours of eligible pro bono legal service = 1 credit. | 24 hours per 2 years | *Voluntary reporting *2008: 12% | No | No emeritus rules as of June 2014. | *Similar language. *Utilizes judges on pro bono as members of regional committees. | *Different language. *No goal. | AGO employees may engage in pro bono work. Program won ABA's Pro Publico Award for pro bono. | | | 2013: 100,964 | In order to be eligible, law student must be enrolled in a law school approved by the ABA, have completed at least 2/3 of the total hourly academic credits required for graduation, must be approved by dean, and must be familiar with ethical rules. | Adopted Rule 6.5 |

| State | CLE Rules | CLE Requirements | Mandatory Pro Bono Reporting | Mandatory State Bar | Emeritus Rules | Judges & Courts: State Adoption of ABA Model Code of Judicial Conduct Rule 3.7 | Comparison to Model Rule 6.1 | Government Attorneys | % of attorneys doing pro bono | Avg. hours of pro-bono/attorney | Hours of pro bono work/yr | Law student Practice Rules | Unbundling/ Comparison to Model Rule 6.5 |
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| OKLAHOMA | No rules. | 12 hours per year (50 minute hours) | No reporting. | Yes | No emeritus rules as of June 2014. | Similar language to rule 3.7. •Access to Justice Commission exists in state | •Similar to original language. •No goal. | No information available. | | | | In order to be eligible, law student must have completed 1/2 of the number of academic hours in an ABA accredited Oklahoma law school, have a graduating GPA average, have approval of a law school dean, and be registered and accepted as a law student with the Board of Bar Examiners of Oklahoma Bar Association | Adopted Rule 6.5 |
| OREGON | No rules. | 45 hours per 3 years | Voluntary reporting | Yes | Minimum age: No. Years of practice: No. Status: Volunteer practice only. Direct supervision: No. Out of state license: Yes, provides admission on motion with 15 years for active pro bono. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Reduced | Has not adopted rule 3.7, but has permissive language that permits judges to participate in and promote pro bono programs. •Access to Justice Coalition organized by Lawyers Campaigning for Equal Justice. | •Different language. •Goal of 80 hours of pro bono work/yr. | No information available. | | | | In order to be eligible, student must be enrolled or have graduated from a law school approved by the ABA and have completed 4 semesters of legal studies. The student must be certified by law school dean, be introduced to court by a practicing attorney, and neither ask nor receive compensation for services performed. | Adopted Rule 6.5 |
| PENNSYLVANIA | No rules. | 12 hours per year | No reporting. | No | No emeritus rules as of June 2014. | Different language to rule 3.7. Policies and rules allow court employees to do pro bono work. | •Same as original 1983 language. •No goal. | No information available. | | | | In order to be eligible, student must be enrolled in an ABA accredited law school, student must have completed 3 semesters of legal studies, must be introduced by a member of the bar, and must receive no compensation for services performed. | Adopted Rule 6.5 |
| RHODE ISLAND | No rules. | 10 hours per year (50 minute hours) | No reporting. | Yes | No emeritus rules as of June 2014. | Has NOT adopted rule 3.7 •Access to Justice Commission exists in state. | •Same as 2002 revision. •Goal of 50 hours of pro bono/yr. | No information available. | | | | In order to be eligible, student must have completed 3 semesters, be enrolled or have completed a course in evidence or trial practice. Student must have the approval of the dean of the law school and be supervised by an attorney. | Adopted Rule 6.5 |
| SOUTH CAROLINA | No rules. | 14 hours per year | No reporting. | Yes | Minimum age: No Years of practice: Inactive or retired for less than 7 yrs. Status: Retired or inactive for not more than 7 yrs. Direct supervision: Yes. Out of state license: Yes. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Reduced/exempt | •Has not adopted rule 3.7, but has permissive language that allows court employees to do pro bono work. •Access to Justice Commission exists in state. | •Same as original 1983 language. •No goal. | No information available. | | | | In order to be eligible, student must be enrolled in University of South Carolina School of Law or Charleston School of Law and have completed 4 semesters of legal studies. The student must be certified by the dean of the law school, must receive no compensation for services performed, and must be familiar with the rules of professional conduct. | Adopted Rule 6.5 |
| SOUTH DAKOTA | No rules. | Not required | No reporting. | Yes | Minimum age: No. Years of practice: No. Status: Retired. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Inactive. | Has NOT adopted rule 3.7. | •Similar to original 1983 language. •No goal. | No information available. | | | | In order to be eligible, student must be a graduate of an ABA approved law school and have completed 4 semesters of legal studies. The student must be certified by the dean of the law school and be introduced to the court by a practicing attorney. The student must receive no compensation for services performed and must be familiar with the rules of professional conduct in South Dakota. | Adopted Rule 6.5 |

| State | CLE Rules | CLE Requirements | Mandatory Pro Bono Reporting | Mandatory State Bar | Emeritus Rules | Judges & Courts: State Adoption of ABA Model Code of Judicial Conduct Rule 3.7 | Comparison to Model Rule 6.1 | Government Attorneys | % of attorneys doing pro bono | Avg. hours of pro-bono/attorney | Hours of pro bono work/yr | Law student Practice Rules | Unbundling/ Comparison to Model Rule 6.5 |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|------------------------------------------------------------------------|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| TENNESSEE | •Receive up to 3 hours of Ethics/Professionalism credit for approved pro-bono legal representation. •5 billable hours = 1 credit hour. | 15 hours per year | •Voluntary reporting • 4% in '05; 6% in '06; 20% in '07 increase due to more prominent placement on dues statement. | No | Minimum age: No. Years of practice: 5 out of last 10 or engaged in the active practice of law for 25 years Status: Inactive. Direct supervision: Yes. Out of state license: Yes. Malpractice insurance mentioned in the rule: Existence and extent. Dues Waived: Yes. | Similar language to rule 3.7 •Access to Justice Commission exists in state | •Similar to 2002 language. •Goal of 50 hours of pro bono/yr. | Attorneys in the executive and judicial branches can perform pro bono under certain conditions. Attorneys in the AG's office are permitted to provide pro bono services with restrictions. In 2011, gov't attys voluntarily reported an avg of 45.27 hrs of pro bono. | 2013: 42.13 % 2012: 47.20 % 2011: 46.11% 2010: 40.25% 2009: 18.26% | 2013: 73.8 2012: 84.23 2011: 82.68 2010: 74.41 2009: 79.68 | 2013: 672,976 | In order to be eligible, a student must have completed 1/2 of the legal studies required for graduation from an approved school of law. The student must have written approval from the Supreme Court of Tennessee and the dean of the law school or the director of the clinical practice program who shall certify the student's standing. | Adopted Rule 6.5 |
| TEXAS | No rules. | 15 hours per year | Phone survey of 500 randomly selected attorneys | Yes | Minimum age: No. Years of practice: Active 5 out of last 10 yrs Status: Retired. Direct supervision: Yes. Out of state license: Yes. Malpractice insurance mentioned in the rule: Yes. Dues Waived: If over the age of 70. | •Has not adopted a rule similar to 3.7, but has permissive language that allows judges to participate in and promote pro bono programs. •Access to Justice Commission exists in state. | •Different language. •Goal of 50 hours of pro bono/yr. | No information available. | | | 2013: 2,370,000 | In order to be eligible, student must be enrolled at a law school approved by the Supreme Court of Texas. The student must have completed not less than 2/3 of the required curriculum for graduation and cannot be on scholastic probation. The student must be certified by the dean of the law school. | No |
| UTAH | No rules. | 24 hours per 2 years | No reporting. | Yes | Minimum age: If retired, age 75 or 50 years in practice Years of practice: age 75 or 50 years in practice. Status: Retired at age 75 or 50 years in practice or inactive. Direct supervision: Yes. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes. | Identical language to rule 3.7. | •Similar to 2002 revision. •Goal of 50 hrs of pro bono/yr. | No information available. | | | | In order to be eligible, a law student must have completed 4 semesters at an ABA approved law school. Participation is limited to civil, misdemeanor, or administrative cases. Must have supervising atty and student appearance must be stipulated by all parties. | Adopted Rule 6.5 |
| VERMONT | •Max 6 every 2 yrs can be completed with pro bono work. • Direct credit. | 20 hours per 2 years | No reporting. | No | No emeritus rules as of June 2014. | Has NOT adopted rule 3.7. •Access to Justice Commission exists in state | •Similar to 2002 language. •Goal of 50 hrs of pro bono/yr. | No information available. | | | | In order to be eligible, student must be enrolled at an ABA approved law school and have completed 4 semesters of study. Student must have completed a course in evidence practice and cannot have sat for the bar examination. | Adopted Rule 6.5 |
| VIRGINIA | No rules. | 12 hours per year | Voluntary reporting | Yes | Minimum age: No. Years of practice: 10 of last 15. Status: Retired. Direct supervision: Yes. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes. | Has NOT adopted rule 3.7. •Access to Justice Commission exists in state | •Different language. •Goal of 2% of professional time to pro bono. | No information available. | | | | In order to be eligible, student must be enrolled in an ABA approved law school and have completed 4 semesters. The student must be certified by the dean of the law school, be introduced to the court or agency by an attorney and must receive no compensation for services performed. Or student can be enrolled in a program of study in the office of an attorney in accordance with VA Bar Examiner rules. | Adopted Rule 6.5 |

| State | CLE Rules | CLE Requirements | Mandatory Pro Bono Reporting | Mandatory State Bar | Emeritus Rules | Judges & Courts: State Adoption of ABA Model Code of Judicial Conduct Rule 3.7 | Comparison to Model Rule 6.1 | Government Attorneys | % of attorneys doing pro bono | Avg. hours of pro-bono/attorney | Hours of pro bono work/yr | Law student Practice Rules | Unbundling/ Comparison to Model Rule 6.5 |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------|---------------------------------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| WASHINGTON | <ul style="list-style-type: none"> •Max 6 out of 45 units every 3 yrs can be completed with pro bono work. • 6 hours include 2 pro bono training and 4 subsequent direct representation. | 45 hours per 3 years | <ul style="list-style-type: none"> •Voluntary reporting on a separate form included with the annual licensing packet •Compliance rates: 13% in 2003; 13% in 2004; 13% in 2005; 15% in 2006. | Yes | Minimum age: No. Years of practice: 5 of last 10 if in-state; 10 out of 15 if out-of-state Status: Retired from practice of law. Direct supervision: No. Out of state license: Yes. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Reduced | <ul style="list-style-type: none"> •Similar language to rule 3.7. •Policies and rules allow court employees to do pro bono work. •Access to Justice Commission exists in state. | <ul style="list-style-type: none"> •Similar to 2002 language. •Goal of 30 hours of pro bono/yr. | Washington State's Attorney General's Office issued a guidance in 2006. | | | | In order to be eligible, student must be enrolled at an ABA approved law school. Student must have completed 2/3 of a 3 year course of study or 5/8 of a 4 year course of study. Student must have the approval of the law school dean and must pay fees as may be set by the Board of Governors with the approval of the state Supreme Court. | Adopted similar rule to MR 6.5; Additional language and requirements |
| WEST VIRGINIA | No rules. | 24 hours per 2 years (50 minute hours) | No reporting. | Yes | Minimum age: No. Years of practice: 10. Status: Retired or inactive. Direct supervision: Yes. Out of state license: Yes. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes. | Has NOT adopted rule 3.7. •Access to Justice Commission exists in state | <ul style="list-style-type: none"> •Same as original language •No goal. | No information available. | | | | In order to represent clients who cannot afford a lawyer, a law student must be enrolled in ABA accredited law school and must have completed 4 semesters. The student must be in good academic standing, have no honor code violations, be introduced to court by a supervising attorney, and neither ask nor receive compensation. Must have signed writing agreeing to follow Professional Rules. | No |
| WISCONSIN | No rules. | 30 hours per 2 years (50 minute hours) | No reporting. | Yes | Minimum age: 70. Years of practice: No. Status: Active or inactive and over age 70. Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: No mention. Dues Waived: Yes, waived for those aged 70 and above. | Has NOT adopted rule 3.7. •Access to Justice Commission exists in state | <ul style="list-style-type: none"> •Same as 2002 language. •Goal of 50 hours of pro bono/yr. | Attorneys not permitted to practice pro bono. | | | | In order to be eligible, a student must be enrolled in an ABA approved law school and have completed 1/2 of the requirements for a law degree. Student must be certified by the dean of the law school. If student attends law school that is out of state, student must take series of steps in order to become eligible. | Adopted MR 6.5 |
| WYOMING | <ul style="list-style-type: none"> •Max 3 out of 15 credit hours needed per year can be completed with pro bono work. •5 billable hours = 1 credit. | 15 hours per year | No reporting. | Yes | Minimum age: No. Years of practice: No. Status: Had been engaged in active practice/retired Direct supervision: No. Out of state license: No. Malpractice insurance mentioned in the rule: Must at a minimum accept coverage provided by emeritus program. Dues Waived: Yes. | Identical language to rule 3.7. •Access to Justice Commission exists in state | <ul style="list-style-type: none"> •Similar to 2002 language. •Goal of 50 hours of pro bono/yr. | No information available. | | | | In order to be eligible, a student must be enrolled in an ABA law school, have completed 2 semesters, be certified by the dean of the law school, and have filed an affidavit with the Wyoming Supreme Court that the student will comply with ethical standards. The person to be represented must consent in writing, the supervising lawyer shall be present in court, and the supervising lawyer cannot supervise more than 3 students. | Adopted similar rule to MR 6.5; Additional language and requirements referring to written consent except with phone consultations |

Overview Analysis of Rules

**LSC PRO BONO TASK FORCE
RULES CHANGE SUBCOMMITTEE
RULES ANALYSIS
JANUARY 2015**

The following provides a brief analysis of the rules identified by the Rules Change Subcommittee that promote or foster the provision of pro bono legal services.¹ The review looked at whether a jurisdiction had the following:

- An Access to Justice Commission
- A unified or voluntary bar
- Rules that permit the provision of pro bono service to count towards Continuing Legal Education (CLE) credits.
- An Emeritus attorney rule
- Pro bono reporting requirements
- Rules that promote an aspirational goal of providing pro bono services
- Unbundling rules
- Rules that allow judges to promote and participate in pro bono
- Law student practice rules

Some findings include:

- All jurisdictions allow some form of law student practice;
- 45 jurisdictions have unbundling rules;
- 40 states and the District of Columbia now have an Access to Justice Commission or similar organization;
- 39 jurisdictions have an Emeritus Attorney rule;
- 33 states have a unified bar;
- 18 states do not promote a minimum number of hours to be dedicated to pro bono service;
- 15 jurisdictions have adopted language similar to Model Rule 3.7;
- 11 states permit pro bono service to count towards Continuing Legal Education credits;
- 11 states and the District of Columbia have a voluntary pro bono reporting rule;
- 9 states have a mandatory pro bono reporting rule; and

I. Access to Justice Commissions

At the beginning of 2014, 32 states and the District of Columbia had an Access to Justice Commission or a similar organization run by the state bar. During the year – seven states – Alaska, Arizona, Delaware, Florida, Mississippi, Oklahoma, and Rhode Island – created an Access to Justice Commission. The State of Oregon created a

¹ The American Bar Association's web site served as the primary source of the information in this document as well as the supporting documents. LSC's Office of Legal Affairs updated this information in December 2014.

similar organization. Currently, 80 percent of states and the District of Columbia have an Access to Justice Commission. That represents a 21 percent increase from the prior year. The states without an Access to Justice Commission or similar organization are:

| States Without An Access to Justice Commission | |
|------------------------------------------------|--------------|
| Idaho | North Dakota |
| Iowa | Ohio |
| Missouri | Pennsylvania |
| Nebraska | South Dakota |
| New Jersey | Utah |

II. Type of Bar

Thirty-two states and the District of Columbia have a Unified State Bar (approximately 65%). The remaining 18 states have a Voluntary Bar. Those states include:

| States With a Voluntary Bar | |
|-----------------------------|---------------|
| Arkansas | Maryland |
| Colorado | Massachusetts |
| Connecticut | Minnesota |
| Delaware | New Jersey |
| Illinois | New York |
| Indiana | Ohio |
| Iowa | Pennsylvania |
| Kansas | Tennessee |
| Maine | Vermont |

III. Continuing Legal Education Credits for Pro Bono

Forty-five of the 51 (88%) jurisdictions reviewed have a Continuing Legal Education Requirement. At the beginning of 2014, only six jurisdictions (approximately 13%) (Colorado, Delaware, Minnesota, Tennessee, Washington, and Wyoming) count pro bono service toward Continuing Legal Education (CLE) credits. That number increased to 11 (approximately 21%) in 2014. Arizona, New York, North Dakota, Ohio, and Vermont changed their rules to permit CLE credit for pro bono. The number of credits varies by jurisdiction, but ranges from a low three of 15 credit hours in Wyoming to 15 credit hours in Tennessee.

Thirty-four other states (66%) do not allow pro bono work to be counted to CLE credits.

There are six jurisdictions (approximately 12%) that have no continuing legal education requirements. They are: Connecticut; the District of Columbia; Maryland; Massachusetts, Michigan, and South Dakota.

IV. Emeritus Attorney Rules

An overwhelming majority (39 of 51 or approximately 76%) of jurisdictions permit inactive or retired attorneys to provide pro bono services. Of the 39 jurisdictions that have an Emeritus Attorney Rule:

- Thirty-four of the 39 (approximately 87%) states do not have a minimum age requirement for an emeritus attorney designation;
- Similarly, 35 of the 39 jurisdictions either reduce or waive bar fees and dues for emeritus attorneys;
- About half of these 39 states (19 or 49%) permit inactive or retired attorneys with an out of state license to provide pro bono services in another state; and
- A minority of jurisdictions (15 of 39 or 38%) require an emeritus attorney to have a minimum number of years of practice.

The twelve jurisdictions (approximately 24.5%) that do not have an Emeritus Attorney Rule are:

| States Without An Emeritus Attorney Rule | |
|------------------------------------------|--------------|
| Arkansas | Nebraska |
| Indiana | Ohio |
| Kentucky | Oklahoma |
| Louisiana | Pennsylvania |
| Michigan | Rhode Island |
| Missouri | Vermont |

V. Pro Bono Reporting

Only nine jurisdictions (approximately 18%) have mandatory pro bono reporting rules. In 2014, two states adopted voluntary reporting pro bono reporting rules increasing the total number of jurisdictions to twelve (approximately 23.5%) have adopted voluntary pro bono reporting rules.

| Mandatory Reporting | Voluntary Reporting |
|---------------------|----------------------|
| Florida | Arizona |
| Hawaii | Connecticut |
| Illinois | District of Columbia |
| Indiana | Georgia |
| Maryland | Kentucky |
| Mississippi | Louisiana |
| Nevada | Montana |
| New Mexico | Ohio |

| | |
|----------|------------|
| New York | Oregon |
| | Tennessee |
| | Virginia |
| | Washington |

Thirty jurisdictions (Approximately 59%) have no pro bono reporting requirement at all.

VI. State Pro Bono Ethics Rule – Model Rule 6.1

Model Rule 6.1 states that: “Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year.” A majority of jurisdictions (33 states and the District of Columbia or 66%) have a goal ranging from 20 to 80 hours per year with 25 of the 34 (73%) jurisdictions having a goal of 50 hours per year. Seventeen states do not have an annual pro bono goal. Those states are:

| States Without An Annual Pro Bono Goal | |
|----------------------------------------|----------------|
| Alabama | New Jersey |
| Connecticut | North Dakota |
| Delaware | Ohio |
| Illinois | Oklahoma |
| Indiana | Pennsylvania |
| Kansas | South Carolina |
| Maine | South Dakota |
| Missouri | West Virginia |
| Nebraska | |

VII. Unbundling Rules

Ninety-two per cent of states (46 states and the District of Columbia) have adopted Model Rule 6.5 or similar language which allows attorneys to provide short-term, limited legal services, when participating in non-profit or court-annexed programs. Only four states have not adopted unbundling rules: Florida; Kansas; Texas; and West Virginia.

VIII. Judicial Conduct Rule 3.7

To date, six states (Colorado, Connecticut, District of Columbia, New Hampshire, Utah, and Wyoming) have adopted the identical language of ABA Rule 3.7 of the New Model Code of Judicial Conduct allowing judges to "encourage lawyers to provide pro bono legal services." Fifteen states have similar language with an additional three states having different language.

Twenty-seven states (approximately 53%) have not adopted a rule similar to Rule 3.7. Of these 27 jurisdictions, 12 (44%) states do have permissive language that may allow:

- judges to participate in and promote the creation of pro bono program;
- judges to serve as members of pro bono regional committees; or

- court employees to do pro bono work.

IX. Law Student Practice

All states have rules that permit law students to practice, but the requirements vary from state to state.

- Only one state, Arkansas, does not have a requirement that the law student complete a certain number of semesters of law school to be eligible to practice law in the state.
- Eleven states and the District of Columbia permit law students to practice after completing two semesters of law school.
- An additional eleven states require that law student complete at least half of their law school training or three semesters of law school to be eligible to practice.
- A majority of states (28 or 55%) require law students to complete at least four semesters of law school before being eligible to practice.

X. States that have adopted the most rules that foster pro bono services:

Colorado

- Has an Access to Justice Commission.
- Permits pro work to be credited to CLE.
- Has an emeritus attorney rule.
- Has adopted language identical to Rule 3.7
- Has a goal of 50 hours of pro bono per year.

Hawaii

- Has an Access to Justice Commission.
- Has mandatory pro bono reporting.
- Has an emeritus attorney rule.
- Has adopted language similar to Rule 3.7
- Has a goal of 50 hours of pro bono per year.

Minnesota

- Has an Access to Justice Commission.
- Permits pro work to be credited to CLE.
- Has an emeritus attorney rule.
- Has adopted language similar to Rule 3.7, but has a policy to allow court employees to do pro bono work.
- Has a goal of 50 hours of pro bono per year.

Maryland

- Has an Access to Justice Commission.
- Has mandatory pro bono reporting.
- Has an emeritus attorney rule.

- Has adopted language similar to Rule 3.7 and has a policy to allow judges to serve on regional committees.
- Has a goal of 50 hours of pro bono per year.

Montana

- Has an Access to Justice Commission.
- Has voluntary pro bono reporting.
- Has an emeritus attorney rule.
- Has adopted language similar to Rule 3.7 and has a policy to allow judges to participate in and promote the creation of pro bono programs in court.
- Has a goal of 50 hours of pro bono per year.

Nevada

- Has an Access to Justice Commission.
- Has mandatory pro bono reporting.
- Has an emeritus attorney rule.
- Has adopted language similar to Rule 3.7 and has a policy to allow judges to serve on regional committees and has a policy to allow court employees to do pro bono work.
- Has a goal of 20 hours of pro bono per year at no fee and 60 hours at reduced fees.

New York

- Has an Access to Justice Commission.
- Has mandatory pro bono reporting.
- Has an emeritus attorney rule.
- Has adopted language different from Rule 3.7 and has a policy to allow judges to serve on regional committees and to participate in and promote the creation of pro bono programs in court.
- Has a goal of 20 hours of pro bono per year for admitted attorneys and 50 hours for newly admitted attorneys.

Tennessee

- Has an Access to Justice Commission.
- Permits pro work to be credited to CLE.
- Has voluntary pro bono reporting.
- Has an emeritus attorney rule.
- Has NOT adopted language similar to Rule 3.7, but has a policy to allow court employees to do pro bono work.
- Has a goal of 50 hours of pro bono per year.

Washington

- Has an Access to Justice Commission.
- Permits pro work to be credited to CLE.
- Has voluntary pro bono reporting.

- Has an emeritus attorney rule.
- Has adopted language similar to Rule 3.7 and has a policy to allow court employees to do pro bono work.
- Has a goal of 30 hours of pro bono per year.

Wyoming – Although Wyoming does not require pro bono reporting, it does:

- Have an Access to Justice Commission
- Permit pro bono work to be credited to CLE.
- Have an emeritus attorney rule.
- Language identical to Rule 3.7.
- Has a goal of 50 hours of pro bono per year.

Note that ALL these states have an Access to Justice Commission.

XI. States that have the fewest policies or rules promoting pro bono:

Missouri

- No Access to Justice Commission.
- Does not permit pro bono work to be credited to CLE.
- Does not require pro bono reporting.
- Does not have an Emeritus attorney rule.
- Does not have a yearly pro bono goal.

Nebraska

- No Access to Justice Commission.
- Does not permit pro bono work to be credited to CLE.
- Does not require pro bono reporting.
- Does not have an Emeritus attorney rule.
- Does not have a yearly pro bono goal.

New Jersey

- No Access to Justice Commission.
- Does not permit pro bono work to be credited to CLE.
- Does not require pro bono reporting.
- Has not adopted a rule similar to 3.7.
- Does not have a yearly pro bono goal.

North Dakota

- No Access to Justice Commission.
- Does not permit pro bono work to be credited to CLE.
- Does not require pro bono reporting.
- Has not adopted a rule similar to 3.7.
- Does not have a yearly pro bono goal.

Oklahoma

- No Access to Justice Commission.
- Does not permit pro bono work to be credited to CLE.
- Does not require pro bono reporting.
- Does not have an Emeritus attorney rule.
- Does not have a yearly pro bono goal.

Pennsylvania

- No Access to Justice Commission.
- Does not permit pro bono work to be credited to CLE.
- Does not require pro bono reporting.
- Does not have an Emeritus attorney rule.
- Has not adopted a rule similar to 3.7.
- Does not have a yearly pro bono goal.

Rhode Island

- No Access to Justice Commission.
- Does not permit pro bono work to be credited to CLE.
- Does not require pro bono reporting.
- Does not have an Emeritus attorney rule.
- Has not adopted a rule similar to 3.7.
- Does not have a yearly pro bono goal.

South Dakota

- No Access to Justice Commission.
- Does not have a CLE requirement.
- Does not require pro bono reporting.
- Has not adopted a rule similar to 3.7.
- Does not have a yearly pro bono goal.

West Virginia

- Does not permit pro bono work to be credited to CLE.
- Does not require pro bono reporting.
- Has not adopted a rule similar to 3.7.
- Does not have an unbundling rule.
- Does not have a yearly pro bono goal.

Note that only one of these states has an Access to Justice Commission.

Rules Breakdown

Pro Bono Task Force Rules Change

| Mandatory Bar | | |
|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| Category | State | Total |
| Unified State Bar | Alabama, Alaska, Arizona, California, DC, Florida, Georgia, Hawaii, Idaho, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming | 33 |
| Voluntary State Bar | Arkansas, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Vermont | 18 |
| Continuing Legal Education | | |
| Category | State | Total |
| States Accepting Pro Bono as CLE | Arizona, Colorado, Delaware, Minnesota, New York, North Dakota, Ohio, Tennessee, Vermont, Washington, Wyoming | 11 |
| States Not Accepting Pro Bono as CLE | Alabama, Alaska, Arkansas, California, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Virginia, West Virginia, Wisconsin | 34 |
| States without CLE Requirements | Connecticut, District of Columbia, Maryland, Massachusetts, Michigan, South Dakota | 6 |

Emeritus Rules

| Category | State | Total |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-----------|
| (1) No Minimum Age Requirement; (2) No Minimum Years of Practice Requirement; and (3) Out-of-State License Not Permitted | | 11 |
| (1) No minimum age requirement (2) No requirement for a minimum number of years of practice (3) Inactive or retired status (4) Limited or no supervision required (5) Out of state license not allowed (6) Malpractice insurance required or provided by legal services organization (7) Reduced or waived fees | Alabama, Alaska, Hawaii, Wyoming | |
| (1) No minimum age requirement (2) No requirement for a minimum number of years of practice (3) Inactive or retired status (4) Limited or no supervision required (5) Out of state license not allowed (6) No mention of malpractice insurance (7) Reduced or waived fees | Maine, Maryland, Massachusetts, Minnesota, New Hampshire, South Dakota | |
| (1) No minimum age requirement (2) No requirement for a minimum number of years of practice (3) Active status (4) Limited or no supervision required (5) Out of state license not allowed (6) Malpractice provided by the organization (7) Reduced or waived fees | Connecticut | |
| (1) No Minimum Age Requirement; (2) No Minimum Years of Practice Requirement; and (3) Out-of-State License IS Permitted | | 11 |
| (1) No minimum age requirement (2) No requirement for a minimum number of years of practice (3) Inactive or retired status or active or inactive out of state (4) Limited or no supervision required (5) Out of state license permitted (6) No mention of malpractice insurance (7) Reduced or waived fees | Colorado, New Mexico, North Carolina | |
| (1) No minimum age requirement (2) No requirement for a minimum number of years of practice (3) Inactive or retired status or active or inactive out of state (4) Limited or no supervision required (5) Out of state license permitted (6) Disclose extent of malpractice coverage (7) Reduced or waived fees | Illinois, Nevada | |

| | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|--------------|
| <ul style="list-style-type: none"> (1) No minimum age requirement (2) No requirement for a minimum number of years of practice (3) Inactive or retired status (4) Limited or no supervision required (5) Out of state license permitted (6) No malpractice insurance requirement (7) Fees not waived | <p>District of Columbia</p> | |
| <ul style="list-style-type: none"> (1) No minimum age requirement (2) No requirement for a minimum number of years of practice (3) Inactive or active out of state (4) Limited or no supervision required (5) Out of state license permitted (6) No mention of malpractice insurance (7) Fees not waived | <p>New Jersey</p> | |
| <ul style="list-style-type: none"> (1) No minimum age requirement (2) No requirement for a minimum number of years of practice (3) Inactive or licensed in another state (4) Limited or no supervision required (5) Out of state license permitted (6) Malpractice insurance required (7) Fees not waived | <p>Mississippi</p> | |
| <ul style="list-style-type: none"> (1) No minimum age (2) No minimum years of practice (3) Retired or retiring status (4) General supervision required (5) Out of state license accepted (6) No mention of malpractice insurance (7) Dues are waived; | <p>Iowa</p> | |
| <ul style="list-style-type: none"> (1) No minimum age requirement (2) No requirement for a minimum number of years of practice (3) Inactive or retired status or active or inactive out of state (4) Limited or no supervision required (5) Out of state license permitted with 15 years practice (6) No mention of malpractice insurance (7) Reduced or waived fees | <p>Oregon</p> | |
| <ul style="list-style-type: none"> (1) No minimum age requirement (2) No requirement for a minimum number of years of practice (3) Inactive or retired status (4) Limited or no supervision required (5) Out of state license allowed for retired attorneys 66 or older (6) No mention of malpractice insurance (7) Waived for retired attorneys who are 66 or older. | <p>Kansas</p> | |
| <p>(1) No Minimum Age Requirement; (2) Years of Practice Requirement; and (3) Out-of-State License NOT Allowed.</p> | | <p>3 325</p> |

| | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|---|
| (1) No minimum age requirement (2) Must have practiced 3 out of last 5 years (3) Inactive or retired status (4) Limited or no supervision required (5) Out of state license not allowed (6) No mention of malpractice (7) Reduced or waived fees | California | |
| (1) No minimum age (2) Must have practiced 10 of the last 15 years (3) Retired or inactive status, must commit to 25 hrs/yr (4) No direct supervision required (5) Out of state license not accepted (6) No mention of malpractice insurance (7) Dues are waived | Montana | |
| (1) No minimum age (2) Must have practiced 10 of the last 15 years (3) Retired (4) Direct supervision required (5) Out of state license not accepted (6) No mention of malpractice insurance (7) Dues are waived | Virginia | |
| (1) No Minimum Age Requirement; (2) Years of Practice Requirement; and (3) Out-of-State License IS Allowed | | 9 |
| (1) No minimum age (2) 10 years of practice (3) Retired Status (4) Direct supervision required (5) Out of state license accepted (6) No mention of malpractice insurance (7) Dues waived | West Virginia | |
| (1) No minimum age (2) Must have practiced 10 of the last 15 years (3) Retired or inactive status (4) Direct supervision required (5) Out of state license accepted (6) Legal Service organization must provide malpractice insurance (7) Dues are reduced | Idaho | |

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| <ul style="list-style-type: none"> (1) No minimum age (2) Must have practiced for 10 of the last 15 years (3) Retired status (4) Direct supervision required (5) Out of state license accepted (6) No mention of malpractice insurance (7) No waiver | Florida | |
| <ul style="list-style-type: none"> (1) No minimum age (2) Must have practiced 5 of the last 10 years (3) Volunteer practice only (4) Direct supervision required (5) Out of state license accepted (6) No mention of malpractice insurance (7) Dues are waived | North Dakota | |
| <ul style="list-style-type: none"> (1) No minimum age (2) Must have practiced 5 of the last 10 years or 25 years of active practice (3) Inactive status (4) Direct supervision required (5) Out of state license accepted (6) Disclose extent of malpractice insurance (7) Dues are waived | Tennessee | |
| <ul style="list-style-type: none"> (1) No minimum age (2) Must have practiced 5 of the last 10 years, 10 of last 15 years if out of state (3) Retired status (4) No direct supervision required (5) Out of state license accepted (6) No mention of malpractice insurance (7) Dues are reduced | Washington | |
| <ul style="list-style-type: none"> (1) No minimum age (2) Must have practiced for 5 of last 10 years (3) Retired status (4) Direct supervision required (5) Out of state license accepted (6) Must have malpractice insurance (7) Dues are waived | Texas | |
| <ul style="list-style-type: none"> (1) No minimum age (2) Must have practiced for 5 years (3) Retired or inactive status (4) No direct supervision required (5) Out of state license accepted (6) Disclose extent of malpractice insurance (7) Dues are waived | Arizona | |

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| <ul style="list-style-type: none"> (1) No minimum age (2) Inactive or retired for less than 7 years (3) Retired or inactive status (4) Direct supervision required (5) Out of state license accepted (6) No mention of malpractice insurance (7) Dues are reduced or waived | South Carolina | |
| (1) Minimum Age Requirement; (2) No Requirement For Minimum Number of Years of Practice; and (3) Out-of-State License NOT Allowed | | 2 |
| <ul style="list-style-type: none"> (1) Minimum age: 70 (2) No requirement for a minimum number of years of practice (3) Age is only required status (4) Limited or no supervision required (5) Out of state license not allowed (6) Must accept coverage provided by emeritus program (7) Reduced or waived fees | Wisconsin | |
| <ul style="list-style-type: none"> (1) Minimum age: 65 (2) No requirement for a minimum number of years of practice (3) Inactive (4) No supervision required (5) Out of state license not allowed (6) No mention of malpractice insurance (7) Waived fees | Delaware | |
| (1) Minimum Age Requirement; (2) Years of Practice Requirement; and (3) Out-of-State License NOT Allowed | | 3 |
| <ul style="list-style-type: none"> (1) Minimum age of 55 (2) 10 years of practice (3) Retired Status, must commit to 30hrs/yr (4) Direct supervision required (5) Out of state license not accepted (6) Malpractice insurance provided by organization (7) Dues waived | New York | |
| <ul style="list-style-type: none"> (1) If retired, age 75 (2) If not retired, 50 years of practice (3) Retired or 50 years in practice (4) Direct supervision required (5) Out of state license not accepted (6) No mention of malpractice insurance (7) Dues waived | Utah | |

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| (1) Minimum age of 70 (2) 25 minimum years of practice (3) Retired Status (4) No supervision required (5) Out of state license not accepted (6) Malpractice insurance not mentioned (7) Dues waived | Georgia | |
| No Emeritus Rule | | |
| No Emeritus Rule | Arkansas, Indiana, Kentucky, Louisiana, Michigan, Missouri, Nebraska, Ohio, Oklahoma, Pennsylvania, Rhode Island, Vermont | 12 |
| Pro Bono Reporting | | |
| Category | State | Total |
| States with Mandatory Pro Bono Reporting | Florida, Hawaii, Illinois, Indiana, Maryland, Mississippi, Nevada, New Mexico, New York | 9 |
| States with Voluntary Pro Bono Reporting | Arizona, Connecticut, District of Columbia, Georgia, Kentucky, Louisiana, Montana, Ohio, Oregon, Tennessee, Virginia, Washington | 12 |
| States with No Pro Bono Reporting | Alabama, Alaska, Arkansas, California, Colorado, Delaware, Idaho, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, West Virginia, Wisconsin, Wyoming | 30 |

Judicial Conduct Rule 3.7

| Category | State | Total |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| States with Identical Language to Rule 3.7 | | 6 |
| Language Identical to Rule to 3.7 http://apps.americanbar.org/legalservices/probono/judicial/downloads/rule_3.7_aba_model_code_judicial_conduct.pdf | Colorado, Connecticut, District of Columbia, New Hampshire, Utah, Wyoming | |
| States with Language Similar to Rule 3.7 | | 15 |
| Similar Language to 3.7 http://apps.americanbar.org/legalservices/probono/judicial/downloads/rule_3.7_aba_model_code_judicial_conduct.pdf | Arkansas, Hawaii, Indiana, Iowa, Kansas, Maryland, Minnesota, Missouri, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Tennessee, Washington | |
| States with Language Different From Rule 3.7 | | 3 |
| Different Language | Delaware, New York, Pennsylvania | |
| States that Have Not Adopted a Rule 3.7, but Have Permissive Language | | 12 |
| | Arizona, California, Florida, Illinois, Massachusetts, Mississippi, Montana, New Jersey, New Mexico, Oregon, South Carolina, Texas | |
| States that Have Not Adopted a Rule 3.7 or Permissive Language | | 15 |
| | Alabama, Alaska, Georgia, Idaho, Kentucky, Louisiana, Maine, Michigan, North Carolina, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin | |

Model Rule 6.1 -- State Pro Bono Ethics Rules

| Category | State | Total |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| Original 1983 Language http://www.americanbar.org/groups/probono_public_service/policy/state_ethics_rules.html | Alabama, Connecticut, Delaware, District of Columbia, Indiana, Kansas, Missouri, New Jersey, Oklahoma, Pennsylvania, South Carolina, South Dakota, West Virginia | 13 |
| 1993 Language | Georgia, Hawaii, Kentucky, Louisiana, Maryland, Massachusetts, New Mexico | 7 |
| 2002 Language | Alaska, Arkansas, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Rhode Island, Tennessee, Utah, Vermont, Washington, Wisconsin, Wyoming | 19 |
| Different Language | Arizona, California, Florida, Maine, Michigan, Mississippi, New York, Ohio, Oregon, Texas, Virginia | 11 |
| No Information | Illinois | 1 |

Unbundling -- Model Rule 6.5

| Category | State | Total |
|----------|-------|-------|
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| <p>Adopted 6.5 http://www.americanbar.org/groups/delivery_legal_services/resources/pro_s_e_unbundling_resource_center/court_rules.html</p> | <p>Alabama, Alaska, Arizona, Arkansas, Colorado, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Wisconsin</p> | <p>38</p> |
| <p>Similar Language</p> | <p>California, Connecticut, District of Columbia, Maine, New Hampshire, New York, North Dakota, Washington, Wyoming</p> | <p>9</p> |
| <p>No Rule</p> | <p>Florida, Kansas, Texas, West Virginia</p> | <p>4</p> |

Law Student Practice Rules

| Category | State | Total |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-----------|
| No minimum coursework requirement | | 1 |
| (1) Enrolled in accredited law school (2) Certified by law school dean (3) Completed professional responsibility class (4) No compensation for services | Arkansas | |
| At least 2 semesters of law school required | | 12 |
| (1) 2 semesters at accredited law school (2) Supervising attorney or completed certain coursework | California, New York | |
| (1) 2 semesters of law school completed (2) Certified by law school dean (3) Must be familiar with Professional Rules | Maryland | |
| (1) 2 semesters of law school completed (2) Certified by law school dean (3) Introduced/supervised by practicing attorney (4) Comply with certain provisions if enrolled in law school outside of CT. | Connecticut | |
| (1) 2 semesters (administrative) or 3 semester (court) at accredited law school (2) Certified by law school dean (3) No compensation for services | Iowa | |
| (1) 2 semesters at accredited law school (2) Certified by law school dean (3) Enrolled in clinical program at the Univ. of Hawaii | Hawaii | |
| (1) At least 30 hours of law school (2) Certified by law school dean (3) Full time student at University of New Mexico Law School | New Mexico | |
| (1) At least 30 to 45 hours of law school (2) Certified by law school dean (3) Introduced/supervised by practicing attorney (4) Certification by state bar. | Nevada | |
| (1) At least 41 hours of law school (2) Certified by law school dean (3) Registered with the Unauthorized Practice of Law Committee with the court. | District of Columbia | |
| (1) 2 semesters of law school completed with passing grades (2) Eligible to participate in clinic, legal aid, or govt agency (3) Introduced/supervised by practicing attorney (4) Must be familiar with Professional Rules | Michigan | |
| (1) 2 semesters at MN law school (2) Certified by law school dean (3) Accepted by client (4) Maintain confidentiality | Minnesota | |

| At least half of law school completed | | 11 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|----|
| (1) At least half of coursework is complete (2) Student's written request with letter from an attorney (3) Consent obtained by client | Alaska | |
| (1) At least 3 semesters of law school (2) Introduced to the court by a member of the bar. (3) No compensation for services | Pennsylvania | |
| (1) At least half of the credits needed to graduate (2) Certified by law school dean (3) Completed legal ethics course | Indiana | |
| (1) At least 3 semesters or half of the credits needed to graduate (2) Certified by law school dean (3) Paid the requested fee (4) No compensation for services | Missouri | |
| (1) At least 3 semesters or half of the credits needed to graduate (2) Certified by law school dean (3) Introduced/supervised by practicing attorney (4) Completed evidence or trial practice classes | Rhode Island | |
| (1) At least 3 semester at ABA-accredited law school (2) Certified by law school dean (3) Introduced/supervised by practicing attorney (4) No compensation for services | Arizona, Illinois, North Carolina | |
| (1) At least half the credit hours towards a degree (2) Certified by law school dean (3) Written approval by Supreme Court of TN | Tennessee | |
| (1) At least half the credit hours towards a degree (2) Certified by law school dean (3) If attends law school out of state must take a series of steps to become eligible | Wisconsin | |
| (1) At least half the credit hours towards a degree at OK law school (2) Certified by law school dean (3) Must have graduating GPA average (4) Accepted by Bd of Bar Examiners of OK Bar Association | Oklahoma | |

| At least 4 semesters of law school required | | 28 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|----|
| (1) 4 semesters of law school completed | Idaho | |
| (1) At least 4 semesters of law school (2) Appearing before a program approved by the state Supreme Court | New Jersey | |
| (1) At least 4 semester at MS law school (2) Introduced/supervised by practicing attorney | Mississippi | |
| (1) At least 4 semesters of law school completed (2) Appearance must be stipulated by all parties (3) Participation is limited to civil, misdemeanor, or administrative cases. | Utah | |
| (1) At least 4 semesters of law school completed (2) Certified by law school dean (3) Complete certain courses such as evidence, trial practice or ethics courses. | Massachusetts, Ohio | |
| (1) At least 4 semesters of law school completed or 2 semesters plus a clinical law course (2) Certified by law school dean (3) No compensation for services | Delaware, Maine, New Hampshire, Texas | |
| (1) At least 4 semesters of law school completed (2) Certified by law school dean (3) Introduced/supervised by practicing attorney (4) Receive affirmative consent from the court | Nebraska | |
| (1) At least 4 semesters of law school completed (2) Certified by law school dean (3) Pay fee | Washington | |
| (1) At least 4 semesters of law school completed (2) Certified by law school dean (3) Pay fee (4) Receive clearance from FL Board of Bar Examiners | Florida | |
| (1) At least 4 semesters of law school completed (2) Certified by law school dean (3) Client must consent (4) Pay fee (5) Complete court in Professional Responsibility | Kansas | |
| (1) At least 4 semesters of law school completed (2) Certified by law school dean (3) Introduced/supervised by practicing attorney (4) No compensation for services | Colorado, North Dakota, Oregon, Virginia | |
| (1) At least 4 semesters of law school completed (2) Introduced/supervised by practicing attorney (3) Must be familiar with Professional Rules (4) No compensation for services | West Virginia | |
| (1) At least 4 semester of law school completed (2) Introduced/supervised by practicing attorney (3) Client must consent (4) Must have completed course in evidence | Vermont | |

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| <ul style="list-style-type: none"> (1) At least 4 semesters of law school completed (2) Certified by law school dean (3) Introduced/supervised by practicing attorney (4) Be familiar with rule of professional conduct (5) Receive no compensation | <p>Montana, South Dakota</p> | |
| <ul style="list-style-type: none"> (1) At least 4 semesters completed at an SC law school (2) Certified by law school dean (3) Be familiar with rules of professional conduct (4) No compensation for services | <p>South Carolina</p> | |
| <ul style="list-style-type: none"> (1) 4 semesters of law school completed (2) Introduced/supervised by practicing attorney (3) Covered by malpractice insurance | <p>Georgia</p> | |
| <ul style="list-style-type: none"> (1) 4 semesters of law school completed (2) Certified by law school dean (3) Supervising attorney must be in court and cannot supervise more than 3 students (4) Client must consent in writing (5) Filed an affidavit with the WY Sup. Ct. that student will comply with ethical standards | <p>Wyoming</p> | |
| <ul style="list-style-type: none"> (1) 4 semesters of law school completed (2) Certified by law school dean (3) Introduced/supervised by practicing attorney (4) Completed course in ethics (5) No compensation for services | <p>Louisiana</p> | |
| <ul style="list-style-type: none"> (1) 4 semesters of law school completed (2) Certified by law school dean (3) Introduced/supervised by practicing attorney (4) Written approval by Chief Justice of KY Supreme Court | <p>Kentucky</p> | |
| <ul style="list-style-type: none"> (1) 4 semesters of law school completed (2) Certified by law school dean (3) Introduced/supervised by a practicing attorney (4) Consent from the Client (5) Written approval by Chief Justice of the AL Supreme Court | <p>Alabama</p> | |

Rules Crosswalk

| | Access to Justice Commission | | Bar Type | | Continuing Legal Education | | | Emeritus Rules | | Pro Bono Reporting | | | Unbundling | | | Law Student Practice | | | | | Model Rule 3.7 | | | | | Model Rule 6.1 -- State Pro Bono Ethics Rules | | | | | | | | | | |
|----------------------|------------------------------|---------------------------------|-------------|---------------|----------------------------|----------------------------------|----------------------|-----------------------|------------------|------------------------------|------------------------------|-----------------------|----------------------------|------------------------------------|---------------------|-----------------------------------|------------------------------------|-------------------------------------------|------------------------------------|------------------------------|----------------------------|--------------------------------|-----------------------------------|------------------------|---------------------------------------------|-----------------------------------------------|--------------------------------------------|-----------------------------------------------|--------------------------------------------|---------------------------------|------------------------------|----------|----------------------|---------------------------------|----------------|--------------|
| | Access to Justice Commission | No Access to Justice Commission | Unified Bar | Voluntary Bar | Accept Pro Bono for CLE | Does Not Accept Pro Bono for CLE | Does Not Require CLE | Has An Emeritus Rules | No Emeritus Rule | Mandatory Pro Bono Reporting | Voluntary Pro Bono Reporting | No Pro Bono Reporting | Adopted ABA Model Rule 6.5 | Adopted Language Similar to MR 6.5 | No Unbundling Rules | No Minimum Semester of Law School | At Least 2 Semesters of Law School | At least 50% or 3 semesters of Law School | At Least 4 Semesters of Law School | Identical Language to MR 3.7 | Similar Language to MR 3.7 | Different Language than MR 3.7 | No MR 3.7 But Permissive Language | Has Not Adopted MR 3.7 | Same or Similar Original Language & No Goal | Same or Similar Original Language & PB Goal | Same or Similar to 1993 Language & PB Goal | Same or Similar to 2002 Language & NO PB Goal | Same or Similar to 2002 Language & PB Goal | Different Language & NO PB Goal | Different Language & PB Goal | | | | | |
| Alabama | X | | X | | | X | | X | | | | X | | | X | | | | | | | | X | | X | | | | | | | | Alabama | | | |
| Alaska | X | | X | | | X | | X | | | | X | | | | | X | | | | | | | X | | | | | | | | 50 hours | Alaska | | | |
| Arkansas | X | | | X | | X | | | X | | | X | | | X | | | | | | X | | | | | | | | | | | 50 hours | Arkansas | | | |
| Arizona | X | | X | | X | | X | | | X | | X | | | | | X | | | | | X | | | | | | | | | | 50 hours | Arizona | | | |
| California | X | | X | | | X | | X | | | | X | | X | | X | | | | X | | | X | | | | | | | | | 50 hours | California | | | |
| Colorado | X | | | X | X | | X | | | | | X | | | | | | X | | X | | | | | | | | | | | | | Colorado | | | |
| Connecticut | X | | | X | | | X | | | X | | | X | | | X | | | | X | | | | | X | | | | | | | | Connecticut | | | |
| Delaware | X | | | X | X | | | X | | | | X | | | | | | X | | | | X | | | X | | | | | | | | Delaware | | | |
| District of Columbia | X | | X | | | | X | | | X | | | X | | | | | | X | | | | | | | | | | | | | | District of Columbia | | | |
| Florida | | X | X | | | X | | X | | X | | | | X | | | | | X | | | | X | | | | | | | | | | 20 hours | Florida | | |
| Georgia | Other | | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | Georgia | | | |
| Hawaii | X | | X | | | X | | X | | X | | | | | | X | | | | | X | | | | | | | | | | | | 50 hours | Hawaii | | |
| Idaho | | X | X | | | X | | X | | | X | | | | | | | | X | | | | | | | | | | | | | | | Idaho | | |
| Illinois | X | | | X | | X | | X | | X | | | | | | | X | | | | | | X | | | | | | | | | | | Illinois | | |
| Indiana | X | | | X | | X | | X | | X | | | | | | | X | | | | | | | | X | | | | | | | | | Indiana | | |
| Iowa | | X | | X | | X | | X | | | X | | | | | X (Admin) | X (Court) | | | | X | | | | | | | | | | | | | Iowa | | |
| Kansas | X | | | X | | X | | X | | | X | | | | | | | X | | | | | | | | | | | | | | | | Kansas | | |
| Kentucky | X | | X | | | X | | X | | | X | | | | | | | | X | | | | | | | | | | | | | | | Kentucky | | |
| Louisiana | Other | | X | | | X | | X | | | X | | | | | | | | X | | | | | | | | | | | | | | | Louisiana | | |
| Maine | X | | | X | | X | | X | | | X | | | X | | | | | | | | | | | | | | | | | | | | Maine | | |
| Maryland | X | | | X | | | X | | X | | | X | | | | X | | | | | | | | | | | | | | | | | | Maryland | | |
| Massachusetts | X | | | X | | | X | | | | X | | | | | | | | | | | | X | | | | | | | | | | | Massachusetts | | |
| Michigan | Other | | X | | | X | | X | | | X | | | | | | | | X | | | | | | | | | | | | | | | Michigan | | |
| Minnesota | Other | | | X | X | | X | | | | X | | | | | | | | X | | | | | | | | | | | | | | | Minnesota | | |
| Mississippi | X | | X | | | X | | X | | X | | | | | | | | X | | | | | X | | | | | | | | | | | Mississippi | | |
| Missouri | | X | X | | | X | | X | | | X | | | | | | X | | | | | | | | | X | | | | | | | | Missouri | | |
| Montana | X | | X | | | X | | X | | | X | | | | | | | | X | | | | | | | | | | | | | | | Montana | | |
| Nebraska | | X | X | | | X | | X | | | X | | | | | | | | X | | | | | | | | | | | | | | | Nebraska | | |
| Nevada | X | | X | | | X | | X | | | X | | | | | X (Activity dependent) | X (Activity dependent) | | | | | | | | | | | | | | | | | 20 hrs free/60 hrs reduced rate | Nevada | |
| New Hampshire | X | | X | | | X | | X | | | X | | | X | | | | | X | | | | | | | | | | | | | | | 30 hours | New Hampshire | |
| New Jersey | | X | | X | | X | | X | | | X | | | | | | | X | | | | | X | | | | | | | | | | | New Jersey | | |
| New Mexico | X | | X | | | X | | X | | X | | | | | | | X | | | | | | | | | | | | | | | | | | New Mexico | |
| New York | X | | | X | | X | | X | | X | | | | | | | | | X | | | | | | | | | | | | | | | | 50 hours | New York |
| North Carolina | X | | X | | | X | | X | | | X | | | | | | | X | | | | | | | | | | | | | | | | | North Carolina | |
| North Dakota | | X | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | North Dakota | |
| Ohio | | X | | X | | | X | | X | | | | | | | | | | | | | | | | | | | | | | | | | | Ohio | |
| Oklahoma | X | | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | Oklahoma | |
| Oregon | Other | | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | 80 hours | Oregon |
| Pennsylvania | | X | | X | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | Pennsylvania | |
| Rhode Island | X | | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | 50 hours | Rhode Island |
| South Carolina | X | | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | South Carolina | |
| South Dakota | | X | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | South Dakota | |
| Tennessee | X | | | X | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | 50 hours | Tennessee |
| Texas | X | | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | 50 hours | Texas |
| Utah | | X | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | 50 hours | Utah |
| Vermont | X | | | X | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | 50 hours | Vermont |
| Virginia | X | | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | 2% | Virginia |
| Washington | X | | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | 30 hours | Washington |
| West Virginia | X | | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | West Virginia | |
| Wisconsin | X | | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | 50 hours | Wisconsin |
| Wyoming | X | | X | | | X | | X | | | X | | | | | | | | | | | | | | | | | | | | | | | | 50 hours | Wyoming |

Board Agenda

BOARD OF DIRECTORS

January 24, 2015

Agenda

OPEN SESSION

1. Pledge of Allegiance
2. Approval of agenda
3. Approval of minutes of the Board's Open Session meeting of October 7, 2014
4. Approval of minutes of the Board's Open Session telephonic meeting of November 17, 2014
5. Consider and act on nominations for the Chairman of the Board of Directors
6. Consider and act on nominations for the Vice Chairman of the Board of Directors
7. Chairman's Report
8. Members' Reports
9. President's Report
10. Inspector General's Report
11. Consider and act on resolution recognizing Sharon L. Browne for her service on the Legal Services Corporation Board of Directors
12. Consider and act on the report of the Finance Committee
13. Consider and act on the report of the Audit Committee
14. Consider and act on the report of the Operations and Regulations Committee

15. Consider and act on the report of the Governance and Performance Review Committee
16. Consider and act on the report of the Institutional Advancement Committee
17. Consider and act on the report of the Delivery of Legal Services Committee
18. Report on implementation of recommendations of the Pro Bono Task Force Report and the Pro Bono Innovation Fund
19. Public comment
20. Consider and act on other business
21. Consider and act on whether to authorize a closed session of the Board to address items listed below

CLOSED SESSION

22. Approval of minutes of the Board's Closed Session of October 7, 2014
23. Management briefing
24. Inspector General briefing
25. Consider and act on General Counsel's report on potential and pending litigation involving LSC
26. Consider and act on list of prospective funders
27. Consider and act on prospective members of Leaders' Council
28. Consider and act on motion to adjourn meeting

**Draft Minutes of the October 7, 2014
Open Session Meeting**

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

Open Session

Tuesday, October 7, 2014

DRAFT

Chairman John G. Levi convened an open session meeting of the Legal Services Corporation's ("LSC") Board of Directors at 8:22 a.m. on Tuesday, October 7, 2014. The meeting was held at the Hilton Albany, 40 Lodge Street, Albany, New York 12207.

The following Board members were present:

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

Also attending were:

| | |
|--------------------|--------------------------------------------------------------------------------------------------|
| Lynn Jennings | Vice President for Grants Management |
| David Richardson | Comptroller and Treasurer, Office of Financial and Administrative Services (OFAS) |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel, and Corporate Secretary |
| Jeffrey Schanz | Inspector General |
| John Seeba | Assistant Inspector General for Audit, Office of the Inspector General (OIG) |
| David Maddox | Assistant Inspector General for Management and Evaluation, Office of the Inspector General (OIG) |
| Laurie Tarantowicz | Assistant Inspector General and Legal Counsel, Office of the Inspector General |
| Carol A. Bergman | Director, Office of Government Relations and Public Affairs (GRPA) |
| Wendy Long | Executive Assistant, Office of Government Relations (GRPA) |

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|---------------------|----------------------------------------------------------------------------------|
| Lora M. Rath | Director, Office of Compliance and Enforcement (OCE) |
| Julia Kramer | Program Counsel, Office of Compliance and Enforcement (OCE), Executive Office |
| Bernie Brady | LSC Travel Coordinator |
| Herbert Garten | Non-Director Member, Institutional Advancement Committee |
| Paul J. Lupia | Executive Director, Legal Aid Society of Mid- New York |
| Barbara Finkelstein | Executive Director, Legal Services of the Hudson Valley |
| Lillian Moy | Executive Director, Legal Services of the Hudson Valley |
| Don Saunders | National Legal Aid and Defenders Association (NLADA) |
| Robin C. Murphy | National Legal Aid and Defenders Association (NLADA) |

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

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

MOTION

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

VOTE

The motion passed by voice vote.

MOTION

Ms. Reiskin moved to approve the minutes of July 22, 2014. Mr. Maddox seconded the motion.

VOTE

The motion passed by voice vote.

Chairman Levi gave the Chairman's Report. He thanked the LSC staff for their hard work in the celebration of the 40th LSC anniversary conference. Chairman Levi read a passage from a centennial sermon written by his great, great, grandfather regarding the Nation's founding and justice in America. He thanked the Board and Non-Director members for their continuous work.

President Sandman gave the President's Report, which included the mid-year grantee information on activity levels during the first six months of 2014 and an overview on Technology Initiative Grant awards and Pro bono Innovation Fund awards. He answered board members questions.

Inspector General Schanz gave the Inspector General's Report which included commending the board for their continuous support of OIG. He reported the OIG had completed an entrance conference with Nancy Davis of WithumSmith+Brown for audit purposes for the upcoming review of LSC's financial statements; he shared the positive feedback OIG received from a grantee on OIG's review of the grantee's fraud vulnerabilities.

MOTION

Dean Minow moved to adopt the resolution recognizing Thomas Coogan. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Dean Minow moved to adopt the resolution in memoriam of John Robb. Father Pius seconded the motion.

VOTE

The motion passed by voice vote.

Father Pius gave the report for the Delivery of Legal Services Committee.

Mr. Grey gave the report for the Finance Committee.

Mr. Maddox gave the report for the Audit Committee.

Mr. Keckler gave the Operations and Regulations Committee report.

MOTION

Mr. Keckler moved to adopt the proposed revisions to 45 CFR Part 1614 (Private Attorney Involvement) as final rule.

VOTE

The motion passed by voice vote.

Dean Minow gave the report for the Governance and Performance Review Committee.

Chairman Levi gave the Institutional Advancement Committee report.

Ms. Jennings and Mr. Flagg gave a report on the implementation of the Pro Bono Task Force.

Chairman Levi invited public comment. Ms. Moy, Executive Director, Legal Aid Society of Northeastern New York, thanked Dean Minow for her participation in the New York State Justice Task Force Hearing, and encouraged the board to stay the course on leadership issues.

There was no new business to consider.

MOTION

Father Pius moved to authorize an executive session of the Board meeting. Dean Minow seconded the motion.

VOTE

The motion passed by voice vote.

The Board continued its meeting in closed session at 9:51 a.m.

**Draft Minutes of the November 17, 2014
Open Session Telephonic Meeting**

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

Open Session

Monday, November 17, 2014

DRAFT

Chairman John G. Levi convened an open session telephonic meeting of the Legal Services Corporation's ("LSC") Board of Directors ("the Board") at 3:35 p.m. on Monday, November 17, 2014. The meeting was held at the F. William McCalpin Conference Center, LSC Headquarters, 3333 K Street, NW, Washington D.C. 20007.

The following Board Members were present by telephone:

John G. Levi, Chairman
Martha L. Minow, Vice Chair
Sharon L. Browne
Robert J. Grey, Jr.
Charles N.W. Keckler
Victor B. Maddox
Father Pius Pietrzyk
Julie A. Reiskin
Gloria Valencia-Weber

Also attending were:

| | |
|--------------------|---------------------------------------------------------------------------------|
| James J. Sandman | President |
| Lynn Jennings | Vice President for Grants Management |
| Ronald S. Flagg | Vice President for Legal Affairs, General Counsel and Corporate Secretary |
| Atitaya Rok | Office of Legal Affairs |
| Carol A. Bergman | Director, Office of Government Relations and Public Affairs |
| Treefa Aziz | Government Relations Manager, Office of Government Relations and Public Affairs |
| Jeffrey E. Schanz | Inspector General |
| Laurie Tarantowicz | Assistant Inspector General and Legal Counsel, Office of the Inspector General |
| John Seeba | Assistant Inspector General for Audit, Office of the Inspector General |
| Joel Gallay | Special Counsel to the Inspector General, Office of the Inspector General |
| David O'Rourke | Assistant Inspector General for Investigations, Office of the Inspector General |

| | |
|---------------|-----------------------------------------------------------------------------------------------|
| David Maddox | Assistant Inspector General for Management and Evaluation, Office of the Inspector General |
| Traci Higgins | Director, Office of Human Resources |
| Sophia Mason | Benefits Manager, Office of Human Resources |
| Janet LaBella | Director, Office of Program Performance |

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

Chairman Levi called the open session telephonic meeting of the Board to order.

MOTION

Father Pius moved to change the order of the agendas on the Federal Register Notice; the Governance and Performance Review Committee meeting will be held after the Board of Directors meeting. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

MOTION

Professor Valencia-Weber moved to approve the agenda of the Board meeting. Ms. Reiskin seconded the motion.

VOTE

The motion passed by voice vote.

Ms. Aziz briefed the Board on the draft transmittal letter to accompany the Inspector General's Semiannual Report (SAR) to Congress. She answered questions from the Board.

MOTION

Professor Valencia-Weber recommended that the Board approve the SAR transmittal letter to Congress, with amendments. Dean Minow seconded the motion.

VOTE

The motion passed by voice vote.

In other business, Ms. Browne of the Governance and Performance Review Committee recommended that the Board approve the Health Reimbursement Arrangement Plan, and adopt the resolution to affirm the LSC President's authority to amend the employee health benefits.

VOTE

The Board unanimously adopted the resolution and Health Reimbursement Arrangement Plan with noted changes.

Chairman Levi solicited public comment and received none.

There was no other business to consider.

The Board of Directors meeting adjourned at 3:59 p.m.

Sharon L. Browne
Resolution



BOARD OF DIRECTORS

Legal Services Corporation
America's Partner For Equal Justice

RESOLUTION

IN RECOGNITION AND PROFOUND APPRECIATION OF DISTINGUISHED SERVICE BY SHARON L. BROWNE

WHEREAS, Sharon L. Browne has faithfully and with great honor, integrity, and distinction served as a member of the Legal Services Corporation's Board of Directors for the last four years;

WHEREAS, Sharon has provided invaluable insights, perspective, and guidance to the Corporation on a variety of matters throughout her tenure on the Board and on the Board's Delivery of Legal Services Committee, Finance Committee and Governance and Performance Review Committee;

WHEREAS, Sharon's collegiality and assiduous attention to details have been of enormous benefit to LSC and her colleagues on the Board;

WHEREAS, Sharon's leadership and commitment to LSC's mission of providing high-quality civil legal services to low-income Americans have been a great asset to the Corporation;

NOW, THEREFORE, BE IT RESOLVED THAT, the LSC Board of Directors hereby acknowledges and extends its profound appreciation to Sharon for her years of dedicated and distinguished service and contributions to LSC and to the cause of civil legal assistance for low-income Americans.

Adopted by the Board of Directors
On January 24, 2015

John G. Levi
Chairman

Attest:

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

Resolution #2015-XXX

University of Miami
School of Law Events

Justices and Judges Panel Bios

The Importance of Access to Justice to the Judiciary

January 23, 2015

University of Miami School of Law

Miami, Florida

Judge Marcia G. Cooke, U.S District Court for the Southern District of Florida

Marcia G. Cooke is a native of Detroit, Michigan. Judge Cooke is an experienced trial attorney and lawyer and has held a variety of positions in the public sector. Prior to being appointed to the Federal Bench, she was an Assistant Miami-Dade County Attorney. She represented Miami-Dade County in a variety of matters including litigation on behalf of the Housing Agency and defensive tort litigation. Judge Cooke has also served as the Chief Inspector General for the State of Florida. Governor Jeb Bush appointed Judge Cooke in 1999. The Chief Inspector General is responsible for promoting accountability, integrity, efficiency and ethical behavior in the agencies under the jurisdiction of the Executive Office of the Governor.

Prior to serving as Chief Inspector General, Judge Cooke served as an Executive Assistant United States Attorney for the Southern District of Florida, in Miami, for seven years. Her responsibilities included training and professional development for a staff composed of 200 lawyers and over 200 support personnel, as well as immigration issues and other special projects.

In 1984, she was selected as a United States Magistrate Judge for the Eastern District of Michigan. Responsible for the full range of judicial activities, Judge Cooke was the youngest federal judicial officer at the time of her appointment.

She has also served as a legal services attorney and a public defender, providing representation for the indigent, and an Assistant United States Attorney in the Eastern District of Michigan. As a prosecutor in Michigan and Southern Florida, she successfully prosecuted over thirty criminal jury trials. Judge Cooke was also in private practice with the law firm of Miro, Miro and Weiner.

In addition to her other responsibilities, Judge Cooke is an adjunct professor at the University of Miami School of Law where she teaches litigation skills and criminal law. She also served as an adjunct professor at Wayne State University Law School. She is also a long-time faculty member of the National Institute of Trial Advocacy (NITA) and has taught at trial practice and litigation programs throughout the country. Judge Cooke also lectures on issues related to trial practice and litigation. Having presided over the case of United States of America v. Jose Padilla, she is often called upon to participate in symposiums related to terrorism. One of the defendants in the trial, Jose Padilla, is the only American citizen detained in a military brig as an enemy combatant. Mr. Padilla, at the behest of his co-defendant, served as a Mujadeen in Afghanistan.

A graduate of the Georgetown University Edmund G. Walsh School of Foreign Service, she remains active in university activities. She is a member of the Board of Governors and served as the national President of the Georgetown University Alumni Association. She was elected to the University's Board of Directors in 1998. She received her law degree from the Wayne State University Law School in Detroit, Michigan.

Judge Cooke has presided over many interesting cases, among them criminal cases involving the Israeli mafia moving company scams, and various drug offense cases. One of the more memorable multi-defendant drug cases involved the kidnapping and attempted murder of a rival drug trafficker (who happened to have his 3 year old godchild with him). Testimony in the case revealed drug traffickers pawning off Mercedes Benz automobiles in order to acquire cash to complete drug deals; torture of rivals using a household steam iron; boyfriends hiding in closets; and even a love affair between a trafficker and police officer!

Chief Justice Jorge Labarga Supreme Court of Florida

Jorge Labarga was born in Cuba in 1952. He is married to Zulma R. Labarga, and they have two daughters. He arrived in the United States at the age of 11 where he initially lived with his family in Pahokee, Florida. He graduated from Forest Hill High School in West Palm Beach in 1972 and received his B.A. (1976) and J.D. (1979) from the University of Florida.

Justice Labarga began his legal career in 1979 as an Assistant Public Defender with the Public Defender's Office in West Palm Beach, assigned to the appellate, misdemeanor and felony trial divisions. In 1982 he joined the State Attorney's Office in West Palm Beach, where he tried cases ranging from theft to homicide. In 1987 he joined the firm of Cone, Wagner, Nugent, Roth, Romano & Ericksen, P.A., and specialized in personal injury trial work. In 1992 Justice Labarga participated in founding the law firm of Roth, Duncan & Labarga, P.A., in West Palm Beach, where he continued to specialize in personal injury litigation and criminal defense.

Governor Lawton Chiles appointed Justice Labarga to the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, in 1996. In that capacity he served in the family, civil and criminal divisions. He also served as the administrative judge of the civil division.

In December 2008 Justice Labarga was appointed by Governor Charlie Crist to the Fourth District Court of Appeal. On January 1, 2009, he was appointed by Governor Crist to the Florida Supreme Court, where he presently sits as the 84th Justice to take office at the Florida Supreme Court since statehood was granted in 1845. On June 30, 2014, he was sworn in as the 56th Chief Justice of Florida -- the first person of Hispanic descent to lead the state judicial branch.

Richard K. Leefe, Leefe Gibbs, Sullivan & Dupre

Richard K. Leefe is a founder of the firm of Leefe, Gibbs, Sullivan & Dupré, where he practices as a senior partner. He has been practicing law for forty (40) years. Prior to attending law school, Mr. Leefe graduated from Louisiana State University with a bachelor's degree in engineering in 1969. Upon graduation, he passed the licensing test for engineers and worked as an engineer. Mr. Leefe then entered the United States Army receiving a commission as a Combat Engineer Officer and served in the Viet Nam war, commanding an engineer company in the Mekong Delta during 1970-1. Upon returning from Viet Nam, he attended Loyola College of Law where he attained honors and served as an Editor of the Loyola Law and later served on adjunct faculty for twenty-six years as a professor teaching junior and senior law students. Mr. Leefe is also a graduate of Robert Gordon University in Aberdeen, Scotland, where he obtained a LLM (Master of Laws) in International Commercial Law. In 2002, Mr. Leefe taught at Huazhong University Law School in Wuhan, China, teaching Chinese law students American law and returned to China in 2009 to teach English to Chinese engineer PhD candidates at the same university.

Mr. Leefe was elected by the Louisiana State Bar Association (LSBA) and served as LSBA President for the term 2013-14. He serves on the Board of Governors to the Louisiana State Bar Association, as well as on numerous committees of the bar association. He has also served as LSBA Secretary and Editor of the Louisiana Bar Journal. Mr. Leefe is a member of the Board of Directors of the Louisiana Bar Foundation, and has been a delegate to the ABA House of Delegates and served on the ABA Legal Access Job Corps Task Force, 2013-14. Mr. Leefe is presently serving as the Chair of the Louisiana Supreme Court Attorney Intern Program (LaSCAIP), being appointed to that position by the Louisiana Supreme Court.

Mr. Leefe has handled legal matters in Europe, South America, Africa and Asia, as well as in many of the United States, Canada and Mexico.

Mr. Leefe is the author of legal treatises including: *Louisiana Code of Evidence, Practice Guide*, 1st Edition 1990, 2nd Edition 1998 and 3rd Edition 2005 (Lexis Law Publishers) which he updates every year with published pocket parts; *Cases and Materials on Louisiana Negotiable Instrument Law*, three editions, Loyola University Publisher; and *Cases and Materials in Evidence*, two editions published by Loyola University. In addition to teaching law school, he annually teaches sections of mandatory continuing legal education dealing with the rules of evidence, ethics, professionalism and courtroom matters. In 2011, he taught in the Loyola University Executive MBA program teaching Courtroom Evidence to Executive MBA students. He has been a speaker for many years at Loyola College of Law/National Institute for Trial Advocacy (NITA) based programs on the state and federal rules of evidence, LSBA CLE for Professionalism, Professional Education Systems and others. He has received various awards for his teaching.

Chief Justice Liana Fiol Matta, Tribunal Supremo de Puerto Rico

The Honorable Liana Fiol-Matta obtained her B.A. in English Literature at Trinity Washington University, then Trinity College, in 1967. She received her Juris Doctor degree magna cum laude in 1970 from the University of Puerto Rico School of Law. She was also Editor in Chief of the University of Puerto Rico Law Review. She obtained a Master of Laws degree in 1988 and a Doctor of Juridical Science degree in 1996, both from Columbia University in New York.

After holding several important positions in the Government of the Commonwealth of Puerto Rico she devoted herself to teaching. Between 1978 and 1988, she taught at the Inter American University School of Law and at the Pontifical Catholic University of Puerto Rico School of Law. She returned to government work from 1988 to 1990, as an Advisor to the Governor, concentrating in the areas of planning, environmental regulations and natural resources. She was appointed to the Court of Appeals of Puerto Rico in 1992 and served as Chief Judge of that court from 1996 to 2002, while teaching law part time at the Inter American University and the University of Puerto Rico.

From 2002 to 2003, she chaired the committee whose work led to the creation of the Puerto Rico Judicial Academy in 2003. She has been Chair of the Board and Academic Dean of that institution since its inception. Justice Fiol-Matta has been recognized as a distinguished advocate of women's rights and environmental protection. She served on the Supreme Court Special Commission on Gender Discrimination in the Courts and the Supreme Court Standing Committee on Gender Equality. She has

authored numerous legal articles published in Puerto Rico and the United States and has been a member of the Puerto Rican Academy of Jurisprudence and Legislation since 2002.

On February 19, 2004, Justice Fiol-Matta became an Associate Justice of the Supreme Court of Puerto Rico by appointment of Governor Sila María Calderón. On April 11, 2014, Governor Alejandro García Padilla designated her as Chief Justice of the Supreme Court of Puerto Rico.

Judge William A. Van Nortwick, Jr, Florida First District Court of Appeals (ret.)

William A. Van Nortwick, Jr. is a partner with Akerman LLP working in the Jacksonville office. He will focus his practice on complex civil and administrative appellate matters. Mr. Van Nortwick also serves as partner-in-charge of Akerman's pro bono program where he continues to expand the firm's philanthropic efforts within education and youth development.

In January 2015, Judge Van Nortwick, Jr. retired as a judge on Florida's First District Court of Appeal after serving more than 20 years on the court, following a career in private practice in Jacksonville, Florida. His practice involved a wide range of business law, including transactional matters and commercial and administrative litigation and appeals.

A native of North Carolina, Judge Van Nortwick received his undergraduate degree from Duke University and his juris doctor with honors from the University of Florida, where he served as executive editor of the law review.

He has been active in many professional organizations, including appointment as a member of the Florida Commission on Access to Civil Justice by the Florida Chief Justice, the American Bar Association Judicial Division Ethics and Professionalism Committee, Florida Bar Standing Committee on Pro Bono Legal Services (immediate past chair), the Florida Supreme Court's Standing Committee of Pro Bono Legal Services (former chair), the Florida Supreme Court Professionalism Commission, the executive council of the Florida Bar Business Law Section, the Florida Court Education Council, the Florida Bar Foundation (past president), and the Florida District Court of Appeal Performance and Accountability Commission (former chair). He also previously served as president of the boards of directors for Jacksonville Area Legal Aid and Florida Legal Services.

Judge Van Nortwick is also involved in teaching the law, serving as an adjunct professor at Florida State University College of Law, teaching Professional Responsibility, a visiting professor at University of Trento Law School in Italy, and the Appellate Associate Dean of the Florida College of Advanced Judicial Studies. He is a frequent lecturer for CLE and CJE programs.

Judge Van Nortwick has received the Florida Supreme Court Distinguished Judicial Service Award, the American Bar Association Pro Bono Publico Award, the Florida Bar Pro Bono Award for Florida's Fourth Judicial Circuit, the Thurgood Marshall Award for Florida's Second Judicial Circuit, and the Florida Bar President's Award of Merit in both 1992 and 2002.

Tech Presentation Bios

Using Technology to Expand Access to Justice: A Showcase of LSC's Technology Initiative Grants

January 23, 2015

University of Miami School of Law

Miami, Florida

Bethany A. Bandstra, Legal Intern, University of Miami School of Law Health Rights Clinic

Bethany Bandstra is a 3L and a Miami native. She earned her Bachelor's degree in Hospitality Administration at Boston University. Prior to law school, Bethany was a restaurant manager for the Hillstone Restaurant Group, where she had an opportunity to lead others in 4 different locations across the US. After applying to law school, Bethany spent a summer in South Africa where she taught English, math, and music to students in the Mamelodi Township of Pretoria. At Miami Law, she is a member of the *University of Miami Law Review* and a Clinical Fellow for the University of Miami Health Rights Clinic. During her time in the Health Rights Clinic, Bethany represented clients in Social Security, Public Benefits, and Immigration matters. Last spring, she worked with a team of students to prepare a guided interview using the Access to Justice software. Bethany also had the pleasure of interning for the Honorable Adalberto Jordan and working as a summer associate for Gunster, Yoakley, and Stewart. Bethany hopes to continue to serve the Miami community throughout her career.

William D. Mueller, Legal Intern, University of Miami School of Law Health Rights Clinic

William Mueller is a 3L law student at the University of Miami School of Law. He, along with a team of law students from the University of Miami School of Law Health Rights Clinic, utilized the document-assembly program Access to Justice to produce a pre-need guardianship interview intended for the legally underserved population of South Florida. In June, William presented the group's project at the Region VII Advocates Committee Meeting, and at the "CALIcon" conference at Harvard Law School. William is a graduate of Carnegie Mellon University, and currently works as a clerk for the appellate law firm of Kula & Associates, P.A., where he has worked on several appeals to the Florida District Courts of Appeal.

Glenn Rawdon, Program Counsel for Technology, Legal Services Corporation

Glenn Rawdon is Program Counsel for Technology with the Legal Services Corporation. He is responsible for helping legal services programs with their technology efforts and with the administration of the Technology Initiative Grants (TIG) program. Since the program started in 2000, TIG has made over 550 grants totaling over \$46 million, many of them in partnerships with SJI and the courts. He is a member of the Executive Committee of the Self-Represented Litigants Network and a frequent speaker on self-help strategies. Before coming to LSC in 1999, he was a managing attorney at Legal Services of Eastern Oklahoma for five years and before that, he was in private practice. He has served as co-chair of the Law Office Management section of the Oklahoma Bar Association and was a member of the Legal Technical Advisory Counsel of the ABA.

Jane Ribadeneyra, Program Analyst, Legal Services Corporation

Jane Ribadeneyra is a Program Analyst for Technology at the Legal Services Corporation in Washington, DC. She is responsible for helping legal aid programs implement innovative technology projects that improve access to high quality legal assistance for poor people across the country, and for the administration of LSC's Technology Initiative Grants (TIG) program. The TIG program has made more than 550 grants totaling nearly \$45 million since its inception in 2000. Jane has over 20 years of experience in nonprofit management, and her areas of expertise include membership marketing, information technology, online community development, communications and project management. She received a B.A. in public policy from Duke University.

Miami Pro Bono Awards Bios

MIAMI PRO BONO AWARD RECIPIENT BIOS

RUSSELL E. CARLISLE

Russell E. Carlisle has championed the rights of the poor and disadvantaged in Broward County for more than 50 years, dedicating hundreds of thousands of hours to pro bono service. He was a founding president of the Legal Aid Service of Broward County in 1974 and joined the board of directors of Florida Legal Services (FLS) in 1975. As Vice-President of FLS, he briefed and argued the first petition for Interest on Trusts Accounts (IOTA) before the Florida Supreme Court. Mr. Carlisle became president of The Florida Bar Foundation in 1979 and led the effort to obtain tax and regulatory approvals for IOTA. Mr. Carlisle and others took the program to other U.S. jurisdictions, and it is now available in all 50 states, the District of Columbia, and the U.S. Virgin Islands. In 1981, Mr. Carlisle was elected president of the Broward County Bar Association, where he established its 1,250-member pro bono services program, Broward Lawyers Care. Throughout his career, Mr. Carlisle has focused on the legal problems of the elderly, chairing the Florida Bar Commission on Elder Law and its Elder Certification Committee. He was also the founding president of the Academy of Florida Elder Law Attorneys and has been active with the National Academy of Elder Law Attorneys in both Florida and New Hampshire since 1993. Mr. Carlisle is a graduate of the George Washington University Law School.

WENDY S. LOQUASTO

Wendy S. Loquasto is the managing partner of the Tallahassee office of Fox & Loquasto, P.A., a statewide appellate law firm that also provides pro bono services. In the past ten years, Ms. Loquasto has donated more than 1,200 hours to providing pro bono services on family law and domestic violence cases for Legal Services of North Florida, Inc. (LSNF). In 2010, she led a pro bono project focused on mortgage foreclosure defense, unemployment, and domestic violence. The project brought together the First District Appellate American Inn of Court, the One Promise Campaign, and area legal aid organizations, including LSNF, Jacksonville Area Legal Aid, and Three Rivers Legal Services. A former president and current board member of LSNF, she has been a “Partner in Service” – a recognized special contributor – since 1998. Ms. Loquasto also organizes LSNF’s Jazz for Justice, a fundraiser auction that raises more than \$30,000 annually. Ms. Loquasto is a former president and current board member of the North Florida Center for Equal Justice, Inc. (NFCEJ). She has served as president of both the Tallahassee Women Lawyers and the Florida Association for Women Lawyers. Ms. Loquasto graduated from Stetson University College of Law.

FRANK E. MALONEY, JR.

Frank Maloney, Jr. has been a pro bono attorney with Three Rivers Legal Services, Inc. since 2004. He has donated nearly 500 hours to helping low-income citizens of Baker County, a small rural area with fewer than 20 attorneys. Mr. Maloney assists both Three Rivers and Jacksonville Area Legal Aid with family law cases. He has been a member of the Eighth Judicial Circuit Bar Association Board of

MIAMI PRO BONO AWARD RECIPIENT BIOS

Directors since 1983 and served as president in 1999. As a member of the Florida Bar's General Practice Solo and Small Firm Executive Council, Mr. Maloney is a strong supporter of the Section's annual award for pro bono projects by legal services programs. He received his law degree with honors from Florida State University College of Law. He also attended the College of Advocacy at the Hastings College of Law.

JUDGE ASHLEY B. MOODY

Judge Ashley B. Moody has donated well over 1,000 hours of pro bono service to the Hillsborough community during her eight years with the Thirteenth Judicial Circuit. Judge Moody created the Thirteenth Judicial Circuit's Volunteer Attorney Ad Litem Program, developing a formal training program and recruiting private attorneys to donate pro bono services to juveniles in the court system. In 2009, she chaired the inaugural Race to the Courthouse pro bono run, generating pro bono pledges of 1,672 hours. Judge Moody served as Vice-Chair and Chair of the Thirteenth Judicial Circuit's Pro Bono Committee from 2008-2010 and 2010-2012, respectively. Judge Moody is one of the founding directors of the 70-member W. Reece Smith Litigation American Inn of Court, focusing on pro bono, professionalism, and diversity. She also serves as a member of the Florida Supreme Court Standing Committee on Pro Bono Services. Judge Moody began her legal career as an associate in the Tampa office of Holland & Knight, LLP. She was elected to the Circuit Court on the Thirteenth Judicial Circuit in 2007, and serves in both the Juvenile Delinquency and Family Law Divisions. Judge Moody graduated from the University of Florida Levin College of Law.

TIMOTHY MORAN

Timothy Moran has been a volunteer attorney with Community Legal Services of Mid-Florida (CLSMF) since 2009. Mr. Moran, who is also a certified housing counselor, plays a critical role offering pro bono assistance to CLSMF's low income Volunteer Lawyers Project (VLP) clients facing foreclosure. He has trained law students from Florida A&M University and other volunteer attorneys in housing counseling and foreclosure litigation. In addition, Mr. Moran has coordinated pro bono efforts with other non-profits, volunteered at foreclosure legal advice clinics, appeared at summary judgment hearings, and counseled clients during mediations. He has been honored as the CLSMF Seminole County Champion of Justice and Pro Bono Attorney of the Year. In 2012, he received the Florida Bar's Young Lawyer Division Pro Bono Service Award. Mr. Moran is a graduate of the University of Florida Levin College of Law

MIAMI PRO BONO AWARD RECIPIENT BIOS

DAVID E. STECKLER

In 2014, David Steckler began a collaboration with the Abuse Counseling and Treatment Shelter (ACT Shelter), Florida Rural Legal Services, and Florida Gulf Coast University to develop the Domestic Violence Pro Bono Project, which assists low income clients with obtaining injunctions for protection. Mr. Steckler hosts a weekly legal clinic at the ACT Shelter to donate pro bono services to low income clients seeking protective orders. In addition to serving over 18 individuals in the past four months, Mr. Steckler has met with countless individuals who do not require complete representation and offered counsel or limited assistance. Mr. Steckler is a professor at Florida Gulf Coast University and a former special assistant attorney general for the state of New York within the Medicaid Fraud Control Unit. He graduated from St. John's University College of Law and earned his L.L.M. in Taxation from New York University.

HOLLAND & KNIGHT LLP

Holland & Knight's Miami office is committed to providing pro bono service through a partnership with Legal Services of Greater Miami, Inc. (LSGMI). Holland & Knight attorneys are at the forefront of many LSGMI pro bono initiatives, taking on pro bono referrals and participating in support campaigns. Holland & Knight has offered pro bono representation on housing and disability cases. In addition, Holland & Knight attorneys chair the Community Giving Subcommittee and the Together, We Must Campaign Committee. Holland & Knight attorney Tiffani Lee is secretary of LSGMI's board of directors, serving for the past six years and chairing the Community Support Committee. The firm has made significant contributions to the Together, We Must campaign, directly supporting LSGMI's operations.