Legal Services Corporation
America's Partner For Equal Justice

MEMORANDUM

TO: All LSC Program Directors

FROM: Lynn A. Jennings
Vice President for Grants Management

DATE: October 10, 2012

RE: **Subgrant Agreements for 2013: Requests for Approval**

This memorandum provides guidance regarding submission of subgrant agreements for LSC approval for grant year 2013.

The subgrant approval process established in 45 C.F.R. § 1627.3 allows 45 days for LSC's review of proposed subgrant agreements. (*See* 45 C.F.R. § 1627.3(a)(2)). This time line requires that subgrant agreements with a January 1, 2013 commencement date be submitted to LSC for approval ***no later than*** November 17, 2012.

As noted in last year's guidance Memorandum, LSC will continue to utilize the same basic Subgrant Agreement Form as in years past, but LSC now requires that each applicant submit its request(s) for approval electronically. The ***online application*** system can be accessed via each recipient's LSC Grants home page at https://grants.lsc.gov. As part of the online application process, recipients will be required to input information that was previously submitted in hard copy via the Subrecipient Profile and Budget Forms. To assist recipients in gathering the necessary information, these forms are included with this Memorandum.

In addition, to complete the online application process, recipients must upload a pdf of the fully executed proposed subgrant agreement. To facilitate and expedite approval of 2013 subgrants, recipients are encouraged to use the Subgrant Agreement Form enclosed, which is the same form used last year and includes additional information regarding Part 1610 requirements. The additional language can be found at Section III, paragraph A, on page 5. If the Subgrant Agreement Form provided by LSC is not used, the proposed agreement should include, at a minimum, the substance of the provisions of that form.

To obtain approval for subgrants with a start date of January 1, 2013, recipients must complete the online intake process as soon as possible, but no later than

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November 17, 2012, at which point the online system will be closed for the submission of subgrants with a January 1, 2013 start date. Only requests submitted via the online application system will be considered. Any request for subgrant approval submitted to LSC in hard copy will be returned. As a reminder, recipients should ensure that an audit for each of their 2011 subrecipients has been submitted to the Office of Inspector General in accordance with the terms of their 2011 subgrant agreements.

Applicability to All LSC Grants

Recipients are reminded that 45 C.F.R. Part 1627 applies to *all* grant funds received from LSC: Basic Field, Native American, Migrant, and Technology Initiative Grants. All LSC grant recipients should review the provisions of 45 C.F.R. Part 1627, especially the definitions at Section 1627.2 to ensure that advance approval is requested and received from LSC before the commencement date of the subgrant agreement. Recipients are also reminded that using LSC funds for a subgrant agreement without receiving LSC's prior approval may result in the initiation of a questioned cost proceeding under 45 C.F.R. Part 1630 to recover the funds expended.

Under 45 C.F.R. Part 1610, a subgrant of LSC funds is considered a Part 1610 transfer of LSC funds in almost every situation. This regulation implements statutory restrictions on the use of non-LSC funds by LSC recipients. With the exception of PAI transfers, the prohibitions and requirements in Part 1610 apply to both the LSC and non-LSC funds of the person or entity receiving the transfer (with modifications to the priorities and timekeeping requirements). *See* 45 C.F.R. § 1610.7.

PAI Subgrants

The provisions of 45 C.F.R. § 1610.7 regarding restrictions on non-LSC funds of entities receiving transfers of LSC funds contain the following exception regarding transfers that are *solely* for PAI activities:

> For transfer of LSC funds to bar associations, *pro bono* programs, private attorneys or law firms, or other entities for the sole purpose of funding private attorney involvement (PAI) activities pursuant to 45 C.F.R. Part 1614, the prohibitions or requirements of this part shall apply only to the funds transferred.

CSR Reporting

The accuracy of CSR reporting is critical, and recipients must ensure that each subrecipient has a copy of the CSR Handbook (2008 Ed., as amended 2011). Recipients must ensure that subrecipients fully comply with CSR reporting guidelines.

Mergers/Consolidations

Programs contemplating mergers or consolidations should consider whether a subgrant will be necessary as an interim measure until the merger or consolidation has been completed. All of the requirements of 45 C.F.R. Part 1627 apply to such subgrants as well. Thus, a request for LSC's approval should be submitted 45 days prior to the proposed beginning date of such a subgrant.

Substantial/Minor Modifications

Pursuant to 45 C.F.R. § 1627.3(b)(3), a substantial change in the work program of a subgrant or an increase or decrease in funding of more than 10% requires Corporation approval in accordance with 45 C.F.R. § 1627.3(a). Minor changes in work program or changes in funding of less than 10% do not require Corporation approval, but the Corporation must be informed of such changes in writing. Each recipient's LSC Grants home page includes a "Request Modification" button for each LSC-approved subgrant. Recipients must utilize the LSC Grants system to request LSC's approval for, or notify LSC of, proposed changes to a subgrant.

Please contact Lora M. Rath, Director of the Office of Compliance and Enforcement, at (202) 295-1524 or rathl@lsc.gov, if you have any questions regarding this memorandum, or if you need further guidance regarding your submission of a subgrant agreement for approval.

Enclosures: Subgrant Agreement Form
Subrecipient Budget Form
Subrecipient Profile Form

2013 SUBGRANT AGREEMENT FORM

Recipient Name:

Recipient Number:

Subrecipient Name:

Subrecipient Telephone Number:

Term of Agreement:

Total Monetary Amount to be Subgranted:

Purpose of Agreement (Please state briefly the general purpose of the Subgrant Agreement):

Services to be Provided (Please circle the appropriate number(s)):

1. Library/resource material -- development
2. Library/resource material -- maintenance
3. Resource material--distribution
4. Facilitate cooperation among legal services organizations
5. Public relations
6. Technical assistance
7. General administrative support -- space, staff, telephone service
8. Attorney training/training development
9. Public or client training/training development
10. Client intake/screening/referral
11. Attorney recruitment
12. Litigation support
13. Attorney representation -- compensated
14. Attorney representation -- pro bono
15. Attorney representation --judicare
16. Other (Please describe)

The Recipient and Subrecipient (collectively referred to as the "Parties") hereby agree as follows:

I. TERMS AND CONDITIONS

A. Duties of the Parties (Describe in detail the duties that each party to the Agreement will perform)

Include the following information:

1. information on the organizational structure of the Subrecipient;

2. state whether the Subrecipient will directly perform the services or will pass all or substantially all the funds to another entity which will perform the services;

3. the geographic area in which the Subrecipient will operate;

4. the priority areas in which legal services will be provided (if applicable); and

5. any additional information necessary to fully describe the duties of the parties to this Agreement.

(Attach Additional Sheets if Needed)

B. Type of Contract (Mark with an X")

___ flat fee ____ fee for service (cost-reimbursable)

___ retainer ____ other (Please state)

C. Amount of Funds to be Transferred (45 CFR § 1627.3(a)(1) requires that the Agreement specify the exact amount of funds to be transferred. The amount need not be stated as a lump sum, so long as the exact amount is determinable. If payment is to be made on an installment basis, the agreement should specify the number of payments, the amount of each payment and the date of each payment).

D. Term of Contract (45 CFR § 1627.3(b)(1) requires the Agreement to clearly reflect a term not in excess of one year. The Agreement should specify both an effective date and a termination date).

E. Additional Provisions

(Attach Additional Sheets if Needed)

II. ADDITIONAL PROVISIONS

PLEASE SELECT ONE APPLICABLE PARAGRAPH FROM EACH SECTION OR EXPLAIN IN THE TRANSMITTAL LETTER WHY NONE IS APPLICABLE. PROVISIONS WHICH DO NOT APPLY MUST BE CROSSED OFF AND INITIALED BY A REPRESENTATIVE OF BOTH THE RECIPIENT AND THE SUBRECIPIENT.

A. Fidelity Bond Coverage

The Parties agree that the Recipient's fidelity bond coverage shall be extended to provide identical coverage to the Subrecipient and the Subrecipient's directors, officers, employees, and agents to the same extent as it would the Recipient.

Or

The Subrecipient shall provide its own fidelity bond coverage for the Subrecipient's directors, officers, employees and agents to the same extent Recipient's fidelity bond covers Recipient's directors, officers, employees and agents (45 CFR Part 1629).

B. Financial Statement Audit Requirements

The Parties agree that funds transferred to the Subrecipient under this Agreement shall be separately disclosed and accounted for, and reported by natural line item in the Recipient's audited financial statement.

Or

The Parties agree that funds transferred to the Subrecipient under this Agreement shall be included by natural line item in a separate audit report of the Subrecipient.

Or

The Parties agree to an alternative method for satisfying LSC's annual audit requirement. Prior written approval for the alternative arrangement has been obtained from LSC's Compliance and Enforcement Division and is attached to this agreement (45 CFR § 1627.3(c) and 45 CFR § 1614.6(d)).

C. Malpractice Insurance

The Parties agree that Recipient's Lawyer's Professional Liability Insurance shall be extended in the amount of to cover the Subrecipient and all attorneys recruited by or providing services on behalf of the Subrecipient under this Subgrant Agreement.

Or

All attorneys recruited by the Subrecipient shall provide their own Lawyer's Professional Liability Insurance (LSC Policy).

III. STANDARD PROVISIONS (APPLY TO ALL SUBGRANT AGREEMENTS)

A. LSC Statutes, Regulations etc.

The Parties agree that LSC funds provided under this agreement are governed by the LSC Act, Congressional restrictions having the force of law, Corporation regulations, instructions, guidelines and assurances (45 CFR § 1627.3(e)). The Parties also agree that if this agreement is a transfer of LSC-funds under 45 CFR § 1610.7, then the non-LSC funds of the subrecipient are subject to LSC's prohibitions and requirements as specified in 45 CFR Part 1610, with the specific exceptions in Section 1610.7 for PAI transfers and the modification on priorities and timekeeping stated therein.

B. Oversight Rights

The Parties agree that LSC has the same oversight rights with respect to the Subrecipient as apply to the Recipient (45 CFR § 1627.3(e)).

C. Priorities

The Parties agree that services provided by the Subrecipient will be provided consistent with the Recipient's Priorities (42 USC 2996f).

D. Audit and Accounting Guide

The Parties agree that funds transferred under this Agreement are subject to the audit and financial requirements of LSC's 1996 Audit Guide, including the Compliance Supplement thereto, and of LSC's 2010 Accounting Guide for Recipients (effective August 23, 2010).

E. Recipient Responsibilities

The Recipient agrees that it is responsible for ensuring the proper expenditure, accounting for, and audit of delegated funds in accordance with 45 CFR § 1627.3(c); this responsibility includes ensuring that the Subrecipient actually submits a timely audit report to LSC, if the Subgrant Agreement provides for separate reporting by the Subrecipient.

F. Orderly Termination

The Parties agree to an orderly termination of this Agreement in the event the Recipient's funding is terminated or the Recipient is not refunded by LSC and for suspension of activities if the Recipient's funding is suspended by LSC (45 CFR § 1627.3(b)(2)).

G. Training and Community/Client Education

Should the Subrecipient provide training or community/client education, it is agreed that the Subrecipient will give LSC reasonable notice of these events. Furthermore, the Subrecipient will provide LSC with a set of materials pertaining to these events.

H. Migrant/Immigration Cases

Should the Subrecipient provide legal services in migrant and/or immigration cases, the Parties agree to comply with 45 CFR Part 1626 and other applicable law.

I. Treatment of Unexpended Funds

It is understood that all unexpended subgrant funds remaining at the end of the subgrant period must be included in the Recipient's fund balance. Such funds must be returned to the Recipient, unless the subgrant is renewed and these funds are used as a part of the subgrant amount in the next subgrant period. If such unexpended subgrant funds are not returned to the Recipient and are used as part of the next subgrant period's amount, LSC must be notified of the amount of funds so used, and if the amount of funds is more than 10% of either subgrant, LSC approval must be obtained under the procedures of 45 CFR § 1627.3(b)(3). *See* 45 CFR §§ 1627.3(b)(1) and (3).

On behalf of the Recipient and Subrecipient, I hereby certify that, to the best of my knowledge, the information in this Agreement is true and correct and agree to bind the Parties to the provisions of this Agreement.

_____	_____
Name of Program Director (Recipient)	Name of Chairperson (Recipient)
_____	_____
Signature	Signature
Date _____	Date _____
_____	_____
Name of Program Director (Subrecipient)	Name of Chairperson (Subrecipient)
_____	_____
Signature	Signature
Date _____	Date _____

SUBRECIPIENT PROFILE

Recipient Number: _____

Recipient Name: _____

1. Please submit this form for each Subgrant Agreement.

Subrecipient Name: _____

Mailing Address: _____
(Street or PO Box) (City) (ST) (Zip)

Subrecipient Program Director: _____ Phone: _____

2. List all counties (or other geographical units as applicable) served by this Subrecipient:

_____

3. Amount of Subgrant Term (Mo/Day/Yr) Purpose Type of LSC Grant
_____ _____to_____ _____ _____

4. Has this Subrecipient's most recent LSC fund balance been included in the Recipient's most recent fund balance ☐ Yes ☐ No ☐ Not LSC-funded ☐ Not Applicable

If the answer is no, indicate the amount of LSC fund balance omitted: $_____

5. Total number of cases closed by this Subrecipient for the most recent four quarters available (***specify dates***): _____ to _____

LSC Funded: _____ Non-LSC Funded: _____

6. If this is a renewal of a subgrant currently in existence, indicate the total number of cases closed during the four quarters preceding those listed above ***(specify dates):*** _____ to _____

LSC Funded: _____ Non-LSC Funded: _____

7. Check the items which best describe the procedures(s) used by the Recipient to monitor and evaluate the work and activities of this Subrecipient:

☐ On-Site Visit ☐ Financial Report Reviewed ☐ Monthly ☐ Quarterly
☐ Review of Legal Work ☐ Monthly or Quarterly Progress Report
☐ Monitor Case Statistics ☐ Other (Specify): _____

IF ADDITIONAL SPACE IS NEEDED PLEASE PHOTOCOPY THIS FORM

ANNUAL SUBRECIPIENT BUDGET
PROJECTED EXPENDITURE OF LSC FUNDS

LSC GRANT TYPE: _____
(Basic Field, Native American, Migrant, TIG etc.)

Recipient Number: _____
Recipient Name: _____
Subrecipient Name: _____
Term of Subgrant: _____
Subgrant Funding Amount: _____

EXPENSE CATEGORY		BUDGET
PERSONNEL		
Lawyers	1	
Paralegals	2	
Other Staff	3	
Employee Benefits	4	
TOTAL PERSONNEL	5	$
NON-PERSONNEL		
Space - Rent/Lease	6	
- Mortgage Payments	7	
- Other Expenses	8	
Equipment Rental	9	
Office Supplies & Expenses	10	
Telephone	11	
Travel – Board Members	12	
- Staff & Other	13	
Training – Board Members	14	
- Staff & Other	15	
Library	16	
Insurance	17	
Dues and Fees	18	
Audit	19	
Litigation	20	
Property Acquisition (1)	21	
Purchase Payments (2)	22	
Contract Services to Client (3)	23	
Contract Services to Applicant (3)	24	
Other (3)	25	
TOTAL NON-PERSONNEL	26	$
TOTAL SUBGRANT FUNDS	27	$

NOTES:

Note 1: YES _____ NO _____ Is any one purchase as defined in 45 CFR §§ 1630.5(b)(1) & (2) for $10,000 or more? If yes, please provide a supporting schedule listing the type of property, purchase price, and anticipated date of purchase.

Note 2: YES _____ NO _____ Do these payments relate to a purchase in excess of $10,000 as defined in 45 CFR §§ 1630.5(b)(1) & (2)? If yes, please complete schedule as requested in Note 1.

Note 3: YES _____ NO _____ Is any service/expense in excess of $5,000? If yes, please provide a supporting schedule listing the type of service fees charged and the anticipated date(s) of services.