



1140 Connecticut Avenue NW, Suite 900
Washington, DC 20036
T: 202.452.0620
F: 202.872.1031
www.nlada.org

MEMORANDUM

To: Frank Strickland, LSC Board Chair
Mike McKay, LSC Finance Committee Chair
Helaine Barnett, LSC President
Charles Jeffress, Chief Administrative Officer

From: Lillian Moy, Chair, NLADA Civil Policy Group (CPG)
Allison Thompson, Chair, CPG Resources Committee
Don Saunders, NLADA Director of Civil Legal Services

Date: September 4, 2007

Re: Recommendations for FY 2009 Budget Mark for LSC

This memorandum is presented to you on behalf of the National Legal Aid & Defender Association (NLADA) board of directors and Civil Policy Group in response to your notice seeking input regarding LSC's request to Congress for funding for fiscal year 2009. We appreciate your invitation to the public and the civil legal aid field and welcome the opportunity to engage with you on the critical need of NLADA's civil members for significant increases in federal support for legal services.

NLADA based its recommendation for FY 2007 and FY 2008 funding on the important findings contained in LSC's *Documenting the Justice Gap*, a study that has significantly underscored in human terms the extraordinary hardships caused by the lack of resources available for civil legal aid in this country. The report highlights the enormity of the unmet legal needs of people living in poverty in this country and lays out a vision of the federal share of funding necessary to meet our society's promise of equal justice for all Americans. We continue to believe that the *Justice Gap* report should serve as the basis from which a FY 2009 request is developed.

NLADA strongly concurs with the finding of the report that it would take five times our nation's current capacity to provide civil legal assistance to meet the actual need that exists. In terms of the LSC appropriation, the federal commitment necessary to meet that need would amount to **\$1,649,000,000** in FY 2009. We will continue to stress that figure to policymakers and stakeholders with an interest in the justice system in this country as the true test of our ability to provide justice to the financially disadvantaged with serious unmet legal needs.

However, given the current fiscal realities facing Congress and LSC as you fashion your request, we again urge you to formulate an FY 2009 appropriation on the stark finding of the report that your grantees were unable to serve 55 per cent of applicants for service due to insufficient resources. This figure remains a harsh reminder of how far we, as a society, are from our promise of equal justice for all. It also provides a realistic short-term goal for LSC funding that is in touch with the fiscal realities of the day.

We urge you to adopt a budget mark that at least stays the course charted during the development of your FY 2007 request, in which you sought to close the “unable to serve” gap by 20 per cent a year over a five-year period. By NLADA’s calculations, the amount of federal support needed just to respond to the 55 per cent of applicants turned away would be **\$716,215,080** for FY 2009. LSC should remain firm in advocating that the gap be closed by FY 2011. Thus, we strongly recommend, while much more is needed and justified, a request for FY 2008 of at least **\$578,935,238**, a figure that would keep LSC on the five-year strategy adopted by the board three years ago.

NLADA greatly appreciates the leadership this LSC board has demonstrated throughout its tenure in seeking and then strongly advocating for significant increases in funding. Your figures have regularly exceeded the requests from the administration and have sent a clear signal of support to your grantee programs, which struggle every day to address the unmet needs of thousands of financially disadvantaged families in need of legal assistance. Indeed, the positive congressional response to date regarding the FY 2008 request underscores the importance of bold action by LSC in emphasizing the struggles poor families often face when access to legal representation is denied them. We think that it is very important that LSC continue to send a strong message to Congress by continuing your history of seeking increased appropriations in each fiscal year.

LSC is the institution in our government recognized by President Bush as “the only resource available to access the justice system . . . for millions of Americans”. We ask you to aggressively meet that challenge in your request for the next fiscal year. Given the critical role LSC funding serves in ensuring that all of our citizens can enjoy access to justice, you must continue to stand, as you have, as the primary federal voice for equal justice in this country.

LSC enjoys the support of significant bipartisan majorities in both the House and the Senate. We understand that federal budgetary decisions must be made against a backdrop of fiscal reality, but NLADA urges LSC to adopt this recommendation, thereby sending the very strongest message you can of the need to close the “justice gap” in this country as soon as possible.

SPECIFICS OF NLADA RECCOMENDATIONS

Because of the overwhelming need for basic field services (including migrant and Native American grants) we believe that the great majority of LSC funding should be granted to programs to provide those basic field services to clients rather than be earmarked for any special projects.

However, we believe that several items are critical to the future vitality of the field, and therefore we recommend funds be set-aside (after a general increase for basic field services) for: 1) continuation of the Loan Repayment Assistance Pilot Program; 2) Training, Publications and Other Assistance for Substantive Advocacy; 3) the Technology Initiative Grant Program; and 4) Native American Special Grants.

Loan Repayment Assistance Program (LRAP). The staggering debt facing law school graduates remains a huge barrier to recruiting and retaining good young attorneys among your grantees. NLADA has been very supportive of LSC’s pilot loan repayment project and we are anxious to review the lessons you learn in its implementation.

Clearly, however, the \$1 million can only begin to meet the need in the field for student debt assistance. Therefore, we ask that LSC seek an additional **\$1 million** from Congress in FY 2009 to allow for continuing and expanding this repayment program and LSC's essential information gathering farther into the future. While legislation is pending in the Congress to provide authorization for loan repayment programs, until such programs are enacted and funded LSC should continue to keep this issue on the front burner.

Training, Publications and Other Assistance for Substantive Advocacy. NLADA also continues to recommend that LSC request **\$10 million** for training, publications and other types of advocacy support.

As LSC and others pursue a strong agenda of promoting quality in the representation provided by grantees, financial support for training and advocacy are absolutely critical in assisting providers in enhancing the quality of their programs.

Funds for training and publications will help further the goals of LSC's quality agenda throughout the country and will allow experienced advocates to share their knowledge and experience with newer advocates. This function is particularly important given that LSC has promulgated a new set of performance criteria and the ABA has significantly revised its Standards for Providers of Civil Legal Aid.

Technology Initiative Grants. NLADA has worked in partnership with LSC and its grantees in helping the civil legal assistance community make great strides in using technological innovation to expand the reach and quality of legal services. The LSC Technology Initiative Grants (TIG) have played a vital role in helping states improve their ability to use technology to better serve their clients and to develop a national infrastructure necessary to support state and local efforts. Therefore, we strongly support the continuation of the Technology Initiative Grant program. We recommend that the FY 2009 appropriation contain at least **\$3 million** for TIG, even if the full appropriation we are recommending is not achieved. We support a pro rata increase in the program as the LSC appropriation is increased above current levels, amounting to **\$7 million** if the full amount we are asking you to seek is realized.

Native American Special Grants. NLADA continues to support a dedicated appropriation of **\$1,000,000** to address significant disparities in funding for Native American programs similar to that sought by LSC in its FY 2006 budget request and by NLADA in its recommendations for FY 2007 and FY 2008. NLADA seeks the opportunity to discuss how the funding would be distributed upon the receipt of such an appropriation.

Summary of NLADA's FY 2009 Budget Mark Recommendations

In considering the FY 2009 mark, it is NLADA's recommendation that LSC adopt the following:

1.	Delivery of Services:	
	- Direct Delivery: (including Basic Field and Native American)	\$543,603,666
	- Native American Special Grants	\$1,000,000*
2.	Management & Administration:	\$13,825,000
	- Technology Initiative Grants	\$7,000,000*
	- Loan Repayment Assistance	\$1,000,000*
	- Training, Publications and Other Assistance for Substantive Advocacy	\$10,000,000*
3.	OIG:	\$2,506,572
4.	Total:	<u>\$578,935,238</u>

* See Note below

NOTE: Our general view is that the vast bulk of the appropriation should be made available to field programs for direct delivery through basic field, migrant and Native American grants. We also strongly support a reasonable cost of living increase for direct delivery before other goals of the appropriation are addressed. Given the uncertainty of the FY 2008 appropriations process, we do not recommend a specific figure at this time. An appropriate cost of living adjustment determination should be made once the FY 2008 is finalized.

If the appropriation provides funding for direct delivery that does provide for an appropriate cost of living increase, we recommend that LSC provide support for the loan repayment assistance pilot project, for proportional increases to the Technology Initiative Grants program, for substantive advocacy, including training, resource materials, and other similar functions essential for the effective and efficient delivery of services and for assistance to programs serving Native American populations.

Thank you again for the opportunity to make this recommendation. We commit the full support of NLADA in advocating for the best possible appropriation from Congress for FY 2009.

We look forward to the opportunity to work with LSC to further develop the budget approach and the strategies suggested herein.