

LSC RULES AND PAI: WHAT EVERY PRO BONO MANAGER SHOULD KNOW

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- I. OIG/OCE Audits of PAI
 - a. OCE Case Service Reviews
 - i. Accounting for PAI expenditures
 - ii. Appropriate allocations
 - iii. Specific PAI activities/expenditures
 - iv. 12.5% requirement
 - v. Case oversight and follow-up procedures
 - b. OIG audits of PAI
 - i. Did 2 pilots, 5 regular audits
 - ii. Same issues as OCE
 - iii. Productivity
 - iv. No more audits planned
 - v. Not clear if there will be an overall report

- II. CSR Issues
 - a. Counting cases
 - i. Can't count as a CSR case any case that grantee could not do directly with LSC funds
 - ii. Don't get hysterical if you have to eliminate cases from CSRs
 - A. Your grant doesn't depend on the numbers of cases
 - B. OIG looked at "productivity"/cost per case, but didn't reach any significant conclusions
 - iii. Sometimes more difficult for PAI programs to get all of the documentation so can't report cases
 - iv. Some programs have eliminated many or all PAI cases from CSRs
 - b. Case closure issues
 - c. Double counting
 - d. Timely closure
 - e. Documentation of reported cases
 - i. Financial eligibility
 - A. Income
 - B. Assets
 - ii. Citizenship attestation or alien eligibility
 - iii. Case handler
 - iv. Nature of assistance provided
 - v. Case closure code
 - vi. Opening/Closing dates
 - vii. Client's name

- III. Retainers
 - a. Now required for PAI cases
 - b. Not CSR Issue/only compliance
 - c. Proposed Part 1611 eliminates retainer requirement for PAI attorneys
- IV. Using non-LSC funds for PAI
 - a. Kennedy Amendment cases
 - b. Other cases
- V. Program integrity issues
 - a. Special treatment for PAI programs
 - b. Restrictions only apply to transferred PAI funds/not to PAI program's other funds
- VI. Subgrant Rule
 - a. Not fee-for-service (e.g. judicare or contract) that is less than \$25,000
 - b. Need LSC approval
 - c. One year at a time
- VII. Attorneys' Fees Restriction
 - a. Does not apply to private attorneys handling "pro bono" cases
 - b. OLA opinion footnote saying exception does not apply to PAI attorneys
 - i. OIG raised issue originally
 - ii. CLASP is working with OLA staff to remove footnote and clarify issues
 - c. Same rules for private attorneys who co-counsel with grantee staff
 - d. Reimbursement for costs and expenses are not attorneys' fees
 - e. Can only get fees for private attorney's time, not for program staff time
 - f. Compensated attorneys (e.g. judicare or contracts) not permitted to get attorneys' fees.
 - g. Does not apply to attorneys' who get referrals that are not part of PAI
 - h. Does not apply to attorneys' who are paid from non-LSC funds that are not part of PAI
- VIII. Timekeeping
 - a. PAI attorneys who receive compensation from recipient must keep time
 - b. Timekeeping system does not have to comply with Part 1635
 - c. Pro bono private attorneys do not have to keep time
- IX. Solicitation
 - a. Grantee can take cases referred by private attorney even if private attorney solicited case
 - b. Grantee can refer case to private attorney after soliciting client
 - c. Probably should not count as PAI since grantee could not do case itself
- X. Fee-Generating Case Referrals
 - a. PAI mechanism can be used to make non-PAI referrals
 - b. Can't count cases for CSR

- XI. Burton Amendment Case Disclosure Requirements
 - a. Not applicable to cases filed by PAI subrecipients or private PAI attorneys

- XII. Client Identity and Statement of Facts
 - a. Private attorneys who receive compensation as part of PAI program required to do statement of facts and identify clients
 - b. Pro bono PAI attorneys not subject to requirement

- XIII. Other Issues
 - a. Applicability of LSC restrictions
 - b. Non-PAI referrals
 - c. Non-LSC funds
 - d. Other?