



Sent by email to: audits@oig.lsc.gov

February 16, 2023

Grace Nyakoe
Audit Director Counsel
Office of Inspector General

RE: Notice of Proposed Revisions to the Audit Guide for Recipients and Auditors, the Compliance Supplement (Appendix A), and Appendices B–E (87 Fed. Reg. 75068 (December 7, 2022))

To the Office of Inspector General:

This letter is submitted in response to The Legal Services Corporation (LSC) Office of Inspector General (OIG) notice of proposed revisions to the Audit Guide, Compliance Supplement (Appendix A), and Appendices B-E. These comments are submitted on behalf of the National Legal Aid & Defender Association (NLADA) and its members.

NLADA applauds the OIG for its efforts to update these important documents and for making sensible revisions that allow auditors to take a more practical approach when reviewing LSC recipients. In the notice, the OIG identified three significant changes in its revision:

1. Eliminating the requirement to classify LSC recipients as High-Risk;
2. Adding a requirement to consider all LSC funds as major programs; and
3. Revising suggested audit procedures for 45 CFR part 1635–Timekeeping Requirement to better track with recent changes in the regulation.

Some appendices were also removed, which then required that the designation of some remaining appendices be changed. NLADA reviewed the proposed revisions and did not identify any other significant changes. This review was done in cooperation with experienced CFOs of legal aid organizations as well as NLADA’s Regulations Committee. Our comments below deal with the significant revisions in the order they are listed above.

1. Eliminating the requirement to classify LSC recipients as High-Risk

NLADA strongly supports this proposed change. There are specific and concrete standards for what constitutes a high-risk auditee. For too long, LSC recipients have been unnecessarily subjected to increased requirements and procedures during their audits because, regardless of the realities of their program, LSC’s OIG required that auditors treat all LSC recipients as a high-risk

auditee. Eliminating this requirement allows auditors to apply accepted standards and classify LSC recipients as high- or low-risk based on the individual situations of each program.

2. Adding a requirement to consider all LSC funds as Major Programs

NLADA does not oppose this proposed revision. Although we tend to oppose blanket rules that apply to all programs, it is our understanding that designating all LSC funds as Major Programs will not present a significant burden to LSC recipients. Further, it is also our understanding that the vast majority, and perhaps even all, of recipients would have their LSC funds designated as Major Programs if auditors were to apply the appropriate Office of Management and Budget standards.

3. Revising suggested audit procedures for 45 CFR part 1635–Timekeeping Requirement to better track with recent changes in the regulation.

NLADA supports the proposed revisions of the Compliance Supplement (Appendix A) section on 45 CFR Part 1635. LSC revised 45 CFR Part 1635 in 2021, and the current version of this section of the Compliance Supplement became outdated and inaccurate as soon as those revisions took effect on January 1, 2022. The OIG’s proposed update here is necessary to ensure that the Compliance Requirement accurately conveys the regulatory requirements with which recipients must comply.

There are two places in this section where NLADA suggests small additions to provide clarity. First, section 2(b) begins as follows:

- b. Obtain an understanding of how the recipient has revised its timekeeping policies to comply with the revisions to Part 1635, including: . . .

It then lists out points “i” through “ix.” It would be helpful here to include a brief reference to the LSC Financial Guide. The guide, like Part 1635, has requirements regarding, among other things, timekeeping, compensation, and salary distribution.

Second, section 3 requires that the auditor review a “minimum sample size of 20 timesheets.” In discussions with our members, it was assumed that one timesheet would most likely represent a timesheet of one pay period for one employee, but there was uncertainty if that was in fact the intention. A description of what the section envisions as one timesheet would be helpful.

Overall, NLADA believes the proposed revisions represent a significant improvement of the audit guide and its accompanying appendices, and we support the changes. Thank you again for the opportunity to present comments regarding these important proposals.

Sincerely,

Christopher Buerger, Counsel, Civil Legal Services
Radhika Singh, Vice President, Civil Legal Services & Strategic Policy Initiatives
Anita Santos-Singh, Chair, Civil Council Regulations and Policies Committee

National Legal Aid and Defender Association