NLADA
National Legal Aid & Defender Association

Sent by email to: *LSCGrantAssurances@lsc.gov*

May 30, 2014

Reginald J. Haley
Office of Program Performance
Legal Services Corporation
3333 K Street NW
Washington, D.C. 20007

RE: Comments Concerning Proposed Revisions to LSC 2015 Grant Assurances, Paragraph 15 (79 Fed. Reg. 24454-24455 (April 30, 2014))

Dear Mr. Haley:

On behalf of the National Legal Aid and Defender Association (NLADA), we want to thank the Legal Services Corporation (LSC) for the opportunity to comment on the proposed revisions to the 2015 Grant Assurances. These comments are submitted on behalf of NLADA by its Civil Policy Group, the elected representative body that establishes policy for the NLADA Civil Division, and its Regulations and Policy Committee.

NLADA appreciates LSC's efforts to clearly set out in its annual grant assurances the duties and obligations of its grant recipients and LSC, thereby insuring that LSC meets its responsibilities as a grant making entity responsible for distributing taxpayer dollars to organizations that provide civil legal assistance to eligible low income clients. However, we are concerned that the proposed revision to paragraph 15 - the addition of the word "time" - rather than clarifying recipients' responsibilities and obligations, creates substantial confusion for grantees and unnecessarily involves LSC in recipient personnel matters.

Since the current language in paragraph 15 already covers acts of criminal behavior involving time reporting, the proposed addition of the word "time" to this paragraph creates uncertainty for recipients as to what actions involving time are subject to mandatory reporting.

Paragraph 15 of the current grant assurances requires a recipient to report to the OIG fraud hotline within 2 business days "…the discovery of any information that gives it reason to believe it has been the victim of a loss of $200 or more as a result of a crime, fraud, misappropriation, embezzlement or theft involving property, client funds, LSC funds, as well as non-LSC funds used for the provision of legal assistance; or when the program contacts local, state or Federal law enforcement officials about a crime." The current language clearly covers serious intentional criminal acts involving a significant theft based on false time reports, such as when an

employee repeatedly submits false time and travel claims for visits to clients when the employee was not actually performing those work-related functions.

However, there is a difference between this type of serious intentional criminal behavior and less serious incidents involving misreporting work time, e.g. consistently arriving 10 – 15 minutes late or using a sick day when not ill instead of a vacation day. These types of infractions and unintentional errors are best handled as personnel matters. They are appropriately handled internally through a recipient's normal management processes based on a grantee's personnel policies and, where applicable, collective bargaining agreements, rather than as an LSC compliance issue.

The addition of the term "time" to this language creates a question as to whether a distinct new category of acts involving time must also be reported to the OIG and what should be included in that category. A recipient could reasonably read this revision as a new requirement by LSC mandating the report of any act where a program has reason to believe an employee has made an erroneous entry on a time sheet or other timekeeping error, situations currently considered and handled as personnel matters and in some cases governed by collective bargaining agreements. Reporting these type of infractions and errors would be unduly burdensome and a wasteful use of the recipients' and the OIG's resources.

We recommend that paragraph 15 not be changed, as the addition of the word "time" creates confusion rather than clarification for recipients and overly entwines the Office of Inspector General in personnel and collective bargaining matters. Mandatory reporting to the OIG regarding time should be reserved for serious conduct involving criminal behavior, actions clearly covered by the current language.

Sincerely,

Dennis Groenenboom, Chair, Civil Policy Group (CPG)
Silvia Argueta, Chair, CPG Regulations and Policies Committee
Robin Murphy, Chief Counsel for Civil Programs
National Legal Aid and Defender Association