



Sent by e-mail to: Wardk@lsc.gov

November 22, 2016

**Re: Written Public Comments for LSC Board Operations and Regulations Committee
Telephonic Meeting, November 22, 2016**

**Agenda Item: Briefing and discussion on Final Rule of Proposed Rulemaking for 45 CFR
part 1627—Subgrants with consolidation of transfer provisions from 45 CFR part 1610.7**

This letter is submitted in response to the Legal Services Corporation's (LSC) telephonic meeting of the Operations and Regulations Committee of the LSC Board. NLADA's comments during the telephonic meeting referenced NLADA's draft of a proposed revision to the Office of Legal Affairs proposed final rule for 45 CFR 1627.

NLADA proposes that arrangements between recipients and bar associations/pro bono programs for use of LSC resources, in particular for in-kind use of office space, be exempt from being defined as subgrants. Instead, such arrangements would be required to adhere to specific rules that provide LSC with full access to records so that it can assure that any activities conducted with LSC space/resources are used in conformity with the law governing LSC. The following language has been drafted so that bar associations/pro bono programs will not be subject to conforming their own established fiscal accounting and audit procedures to meet the audit and financial requirements of the Audit Guide for Recipients and Auditors and the Accounting Guides for LSC Recipients currently required by the final proposed rule, 45 CFR 1627.4(f) (2).

The draft if adopted or adopted in a revised format will need to be conformed to fit the structure of the current proposed final regulation.

1627.2 (e) (3) Subgrant does not include the use of property provided in whole or in part with LSC funds by a recipient to a state or local bar association or pro bono organization which uses the property solely to provide legal information or legal assistance on a pro bono or reduced fee basis to individuals who have been screened and found eligible to receive legal assistance from an LSC recipient.

For use of property funded in whole or in part with LSC funds that falls within 1627.2 (e)(3) the recipient will be required to execute an written agreement between the

recipient and the state or local bar association or pro bono organization that includes the following provisions:

- a. An agreement by the state or local bar association or pro bono organization that they will be bound by the recipients' policies, rules and regulations restricting the acceptance of clients and cases in accordance with LSC rules and regulations and will not engage in any activities on the premises that do not comply with these restrictions.*
- b. An agreement that the state or local bar association or pro bono organization that handles matters as defined in 45 C.F.R. 1635.2(b) must maintain adequate records to demonstrate that its staff who are attorneys and paralegals used the LSC funds, property or services funded in whole or in part with LSC funds:
 - (i) To carry out the activities described in the subgrant agreement; and*
 - (ii) Consistent with the restrictions set forth at 45 CFR 1610.**
- c. An agreement that the state or local bar association or pro bono organization that handles cases as defined in 45 CFR 1635 must require its attorneys and paralegals to maintain records for each case that show the amount of time spent on the case and the activity conducted by date and a unique client name or case number.*
- d. An agreement that the state or local bar association or pro bono organization, will allow the recipient and the Legal Services Corporation access to records for all matters and cases handled at the location*
- e. An agreement that the recipient and the Legal Services Corporation will have access to the state or local bar association or pro bono organization's annual audit.*

Sincerely,

Robin C. Murphy, Chief Counsel, Civil Programs
National Legal Aid and Defender Association