

Briefing Report to Congressional Requesters

GAO

March 1987

LEGAL SERVICES CORPORATION

Reprogramming of Funds and Service Delivery Research Projects



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Human Resources Division

B-202116

March 16, 1987

The Honorable Neal Smith
Chairman, Subcommittee on Commerce,
Justice, State, the Judiciary,
and Related Agencies
Committee on Appropriations
House of Representatives

The Honorable Warren B. Rudman
Ranking Minority Member, Subcommittee on
Commerce, Justice, State, the Judiciary,
and Related Agencies
Committee on Appropriations
United States Senate

In response to your April 10, 1986, letter and later discussions with your offices, we reviewed certain activities of the Legal Services Corporation (LSC), a private, nonprofit corporation that finances legal assistance to the poor in noncriminal proceedings. Specifically, you asked us to determine (1) how LSC had budgeted and ultimately spent its appropriations for fiscal years 1983-86; (2) whether, in November 1985, LSC had complied with the reprogramming provisions of fiscal years 1985 and 1986 appropriations acts before purchasing 260 microcomputer systems; (3) whether LSC had complied with federal procurement regulations when it purchased those systems; and (4) what procedures LSC followed in implementing its research and demonstration projects in 1984 and 1985.

We interviewed LSC officials and reviewed documents pertaining to LSC's budget policies, its purchase of computer equipment, and its award of grants and contracts for research and demonstration projects. In May 1986 we briefed your offices on our review of LSC's expenditures of appropriated funds for fiscal years 1983-86; as agreed, we are not discussing that work in this briefing report.

The results of our other work are summarized below and discussed in detail later in this briefing report.

- In November 1985, LSC entered into an agreement to purchase 260 microcomputer systems for about \$735,000. To fund this procurement, according to LSC's budget director, LSC used fiscal year 1985 carryover funds along with

fiscal year 1986 funds from its training and technical assistance budgeted line item. LSC's budget justification for fiscal years 1985 and 1986 did not mention the computer purchase or related training. We believe that a reprogramming occurs when funds from an appropriations account are used for purposes other than those contemplated at the time of the appropriation. LSC's 1985 and 1986 appropriations acts require that the Senate and House Appropriations Committees be notified when LSC reprograms funds in excess of \$250,000 or 10 percent, whichever is less. Because this procurement did not involve moving funds from one budget line item to another, LSC did not consider this to be a reprogramming action and did not notify the congressional committees. By not notifying the House and Senate Appropriations Committees of this procurement, LSC did not comply with the reprogramming provisions of its 1985 and 1986 appropriations acts.

- Although LSC is not required to follow federal procurement regulations, it used procedures to procure the 260 microcomputer systems that were similar to federal procurement policies. For example, a needs assessment was conducted, and competitive bidding was used.

- As part of its efforts to find supplemental service delivery methods, LSC implemented three research and demonstration projects during 1984 and 1985. The projects' funding, totaled about \$3 million from LSC's fiscal years 1984, 1985, and 1986 program development line item of its consolidated operating budget. LSC relied on its field programs¹ and local legal organizations to determine the types and numbers of cases to be undertaken in the respective areas. Grantees and contractors were competitively selected. For two of the projects, some grants and contracts were extended to allow additional time to complete the required number of cases because eligible legal services clients had not sought the types of services offered at the rate anticipated. For a project involving law schools, LSC extended the grants to coincide with the end of the academic year and provided additional funds totaling about \$140,000. Another project

¹A field program is governed by a board of directors and funded by LSC to provide legal services to LSC-eligible clients. The field programs provide most of the services using staff attorneys who are the programs' employees.

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received an additional \$30,000 for administrative expenses. As of January 1987, only one of the three research projects had been completed and evaluated.

We discussed the contents of this briefing report with the LSC officials, and their comments have been incorporated as appropriate. Unless you publicly announce its contents earlier, we plan no further distribution of this briefing report until 30 days after its issue date. At that time, we will send copies to the Director, Office of Management and Budget; the President of LSC; and other interested parties. Should you need additional information on the contents of this document, please call me at 275-5451.



Franklin A. Curtis
Associate Director

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ABBREVIATIONS

CSR	case service reporting
GAO	General Accounting Office
LSC	Legal Services Corporation

LEGAL SERVICES CORPORATION:
REPROGRAMMING OF FUNDS AND
SERVICE DELIVERY RESEARCH PROJECTS

BACKGROUND

The Legal Services Corporation (LSC) was established by the Legal Services Corporation Act of 1974 (Public Law 93-355) as a private, nonprofit corporation, in the District of Columbia, to provide financial support to field programs,¹ which would provide legal assistance to the poor in noncriminal proceedings. LSC is funded by, but is not considered to be an agency or instrumentality of the federal government. LSC is subject to oversight by the Congress, but not by the Office of Management and Budget. The act authorizes LSC to enter into contracts for goods and services, but does not require it to follow federal procurement regulations in carrying out its procurement and acquisition activities. Public Law 93-355 (1974) authorizes LSC to conduct research into alternative methods of delivering legal services to the poor. LSC provides about \$250 million each year to about 300 field programs. LSC's research projects accounted for a total of about \$3 million during fiscal years 1984, 1985, and 1986.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to determine (1) how LSC had budgeted and ultimately spent its appropriations for fiscal years 1983-86; (2) whether, in November 1985, LSC had complied with the reprogramming provisions of fiscal years 1985 and 1986 appropriations acts before purchasing 260 microcomputer systems; (3) whether LSC had complied with federal procurement regulations when it purchased those systems; and (4) what procedures LSC followed in implementing its research and demonstration projects in 1984 and 1985.

We reviewed LSC's legislative history, which included Public Law 93-355 (1974), as amended, and the District of Columbia Nonprofit Corporation Act, D.C. Code Title 29, Chapter 10. We also reviewed Public Laws 98-411 and 99-180 (LSC's fiscal year 1985 and 1986 appropriations acts).

We reviewed and analyzed LSC's consolidated operating budgets for fiscal years 1983-86 to determine how the appropriated funds were budgeted and ultimately expended. We provided the results of this analysis to the requesters' offices in May 1986. We discussed LSC's budget process with LSC's comptroller, budget director, and

¹A field program is governed by a local board of directors and funded by LSC to provide legal services to LSC-eligible clients. The field programs provide most of the services using staff attorneys who are the programs' employees.

director of government affairs. We reviewed LSC's internal procurement and acquisition policies and procedures, examined the records of the procurement and acquisition of the 260 microcomputer systems, and discussed the procurement processes with responsible LSC officials.

We reviewed the three research and demonstration projects that LSC had initiated during fiscal years 1984 and 1985. We discussed these projects with LSC and field program officials. We also reviewed pertinent project planning and implementation documents to determine (1) why these projects were initiated, (2) how the grantees and contractors were selected, (3) how the needs for and locations of the projects were determined, and (4) whether any of the contractors or grantees received additional funds or research contracts before their performance was evaluated.

We discussed the contents of this briefing report with LSC officials, and their comments have been incorporated as appropriate.

Our work, which was done from April 1986 through January 1987, was conducted in accordance with generally accepted government auditing standards.

COMPUTER ACQUISITION AND REPROGRAMMING OF FUNDS

In September 1985, the LSC Board of Directors approved the allocation and expenditure of \$906,600 to develop and implement a new case service reporting (CSR) system for field programs to report legal service case activities. In November 1985, LSC contracted to purchase 260 microcomputer systems for its field programs at a total cost of \$734,500. LSC also planned at that time to provide computer training and technical assistance to field programs, which would cost an additional \$150,000.

LSC is not required to follow federal procurement regulations, but its policies for procuring services and equipment are similar to federal policies in that they generally require that needs assessments be conducted and that competitive bidding be used.

LSC followed its own procurement policies, and the procurement was funded with training and technical assistance funds, which we believe was a reprogramming action. LSC is required to notify the Senate and House Appropriations Committees before obligating or expending reprogrammed funds. However, because LSC did not believe this was a reprogramming action, it did not do so.

Reprogramming of Funds

On September 6, 1985, the LSC Board of Directors approved development of plans for implementing a CSR system. The Board

voted unanimously in favor of allocating \$906,600 from the training and technical assistance line item of the budget.

According to LSC's budget director, that line item had about \$342,918 in carryover funds from fiscal year 1985, and these funds, combined with the fiscal year 1986 training and technical assistance appropriation of about \$515,000, would total about \$858,000. The other \$48,600 was to be taken out of other fiscal year 1985 carryover funds to fund the full cost of the CSR system.

Sections 509 and 606 of Public Laws 98-411 and 99-180, respectively (the reprogramming provisions for LSC's fiscal years 1985 and 1986 appropriations), state, in part, that none of the funds provided under these acts shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$250,000 or 10 percent, whichever is less, unless the Senate and House Committees on Appropriations are notified 15 days in advance.

The Appropriations Committees were not notified about the microcomputer purchase or funding because LSC did not believe that the computer purchase involved a reprogramming of funds, according to LSC's director, Office of Government Affairs, who had staff responsibility for such notification. He told us that LSC believed that reprogramming occurs when funds are moved from one budget line to another. Since the computer purchase was made from the training and technical assistance line of the budget, which is the normal budget line for training and technological improvements, LSC believed that no reprogramming had occurred, according to this official.

In 1974, the Congress directed GAO to publish standard terminology, definitions, classifications, and codes for federal fiscal, budgetary, and program-related data and information. We published the latest glossary of budgetary terms in 1981.² The Department of the Treasury, the Office of Management and Budget, and the Congressional Budget Office assisted in defining the terms and reviewed the glossary for accuracy, precision, and clarity. Assistance was also provided by many congressional committees, the Congressional Research Service, and individual budget experts. According to the glossary, reprogramming occurs when funds from an appropriations account are used for purposes other than those contemplated at the time of the appropriation.

LSC's fiscal year 1985 and 1986 budget justifications for the training and technical assistance line item repeat justifications

²A Glossary of Terms Used in the Federal Budget Process and Related Accounting, Economic, and Tax Terms, Mar. 1981, U.S. General Accounting Office.

of earlier years concerning LSC's intention to coordinate the bulk purchase of computer software for grantees and lead one to believe that funds would be expended in the same manner as in prior years. Those justifications did not give notice that a large-scale purchase of microcomputer hardware was planned which would require that fiscal year 1986 funds be augmented with carryover funds from fiscal year 1985. When a large percentage of the funds under a line item are expended for an item of equipment that is not specifically mentioned in the budget justification, we believe it is fair to conclude that the Congress did not contemplate that the funds would be used for that purpose when the appropriation was made.

In summary, we believe the microcomputer purchase was a reportable reprogramming action because (1) it was not included in LSC's 1985 and 1986 budget justifications and (2) the estimated cost of the microcomputer systems exceeded \$250,000 or 10 percent of the training and technical assistance funds appropriated in those years.

Computer Acquisition

Our review of LSC's procurement policies indicated that they were similar to federal procurement policies in that they generally required that the agency's needs be assessed and competitive bidding be used when possible. We did not find any problems with LSC's implementation of its policies when it purchased the computer systems.

As early as 1984, LSC identified a need to improve its CSR system. LSC surveyed the field programs to determine the type of any computer systems they had and the systems' capacity. LSC found that about 65 of the over 300 field programs had IBM or IBM-compatible computer systems and the others had either no computer systems or insufficient computer capacity to implement the new CSR system. LSC's director, Office of Information Management, concluded that 260 new microcomputer systems were needed to bring all field programs up to a minimal level of automation to handle the new CSR system. Also, these computers should be IBM or IBM-compatible to be compatible with the systems then in use in the field.

LSC's procurement policy requires that solicitations for bids should be sent to at least three vendors when the contract costs for property or supplies are expected to be over \$5,000. On September 25, 1985, LSC solicited proposals from 12 computer firms to provide the 260 IBM or IBM-compatible microcomputer systems it needed. Seven of the 12 firms responded to the request for proposals. LSC determined that four of the seven firms were responsive to its request for proposals with respect to technical specifications and follow-up support. The four firms submitted price proposals ranging from \$755,300 to \$1,157,520 for the 260

systems. LSC chose the firm that quoted the lowest price, and through further discussions with the firm, LSC was able to buy the 260 microcomputers for a total cost of \$734,500.

In a March 12, 1986, letter to LSC, the Chairman of the Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies, Senate Committee on Appropriations, expressed concerns about the microcomputer systems purchase. Accordingly, he requested that LSC suspend the transaction and cease further obligations of fiscal year 1985 and 1986 funds for this purpose until further review. Before this letter, however, LSC had already purchased 220 of the microcomputer systems. In compliance with the Chairman's request, LSC suspended the purchase and delivery of the remaining 40 microcomputer systems. On October 28, 1986, the Chairman lifted the suspension and gave LSC the approval to purchase the other 40 microcomputers.

We did not determine whether these computer systems were meeting LSC's and the field programs' CSR needs because the systems had not been fully installed and all personnel had not been trained as of December 1986.

LEGAL SERVICES DELIVERY RESEARCH PROJECTS

During 1984 and 1985, LSC initiated three research projects to explore the feasibility of using one or more of them to supplement the staff attorney model³ that is used by the field programs. As of January 1987, LSC had expended or committed about \$3 million from fiscal years 1984, 1985, and 1986 program development funds for these research projects, and had served about 11,000 eligible clients at 24 locations around the country while carrying out this research effort.

In two of the projects, LSC relied on its field programs and local legal organizations to determine the types and numbers of cases to be undertaken in the respective areas. For one project involving law schools, the field programs and law schools determined the need for types of cases. However, LSC reviewed case types and numbers and made the final decision for each of the projects. The time frames needed to complete two of the projects were extended. The third project involving law schools was extended to coincide with the academic year, and \$139,837 in additional funds were provided. One project received an additional \$30,000 for administrative expenses.

³In this model, salaried attorneys and paralegals on the field programs' staffs provide most client services.

The Private Law Firm Project

The Private Law Firm Project was designed mainly to enable LSC to test the feasibility of contracting large blocks of simple, routine legal cases--such as uncontested divorce, personal bankruptcy, and wills--to private law firms for resolution. This method of handling high-volume simple cases would allow firms to utilize standard forms and procedures, which should decrease client costs.

The research goals of this project were to:

- Determine if this type of project could be used to successfully provide needed services and augment the existing legal services available to poor individuals.
- Determine the cost and quality of services provided by private law firms selected by a competitive bidding process.
- Collect data that would permit comparison of the cost and quality of such services to comparable services provided by local LSC programs using the staff attorney model.
- Identify office automation technologies and organizational management techniques that could be adopted by local field programs.

From June 1984 through June 1986, LSC awarded 58 contracts to 50 private law firms to provide legal services to eligible clients in noncriminal matters. The contracts were competitively awarded. These were individual 1-year contracts for a specific number of legal service cases, such as uncontested divorce, personal bankruptcy, spouse abuse, wills, and child support. The contracts provided for an extension beyond the 1-year milestone, at LSC's discretion, to allow the contractors to complete their contractual obligations.

LSC relied mainly on field program officials to determine the number and types of legal service cases to be contracted in the respective areas based on local service needs. However, LSC made the final decision on numbers and types of cases. The contracts were let in 12 field program areas in nine states. LSC has expended or committed about \$1.4 million from fiscal years 1984 and 1985 program development funds for the completion of about 9,600 legal services cases in this project (see table 1).

Some contracts were not a year old. However, for those that were, none of the contractors have completed the targeted number of cases within the 1-year time frame because the actual demand for these services had not been as high as LSC and the field program

officials had anticipated. LSC granted time extensions to all project contractors who had not completed their cases on time.

Table 1 shows by project site the approximate dates when contracts were let, the total cost of contracts, and the number of contractors involved.

Table 1:
Project Site Start Dates, Funding, and
Number of Contractors

<u>Sites</u>	<u>Date contract began^a</u>	<u>Total funding</u>	<u>Number of contractors</u>
Jacksonville, FL	6/84	\$434,950 ^b	11
Des Moines, IA	6/84	128,750	4
Laredo, TX	9/84	58,500	2
Portland, OR	10/84	40,500	2
Santa Ana, CA (Orange County)	10/84	251,140 ^c	7
Lexington, KY	6/85	90,500	3
Jefferson Parish, LA	9/85	46,750	3
New Orleans, LA	9/85	115,775	4
Belton, TX	10/85	24,750	2
Ann Arbor, MI	10/85	39,760	2
San Antonio, TX	11/85	59,100	3
Columbus, OH	2/86	<u>144,375</u>	<u>7</u>
Total		\$1,434,850 =====	50 ===

^aShows the start date of the first contract at the location since all contracts at a location were not awarded at the same time.

^bFunding for the Jacksonville project site totals \$434,950, including a grant for \$300,000 to the field program to manage its own project, including selecting and paying contractors and collecting data for evaluation.

^cFunding for the Orange County project site totals \$251,140, which includes a later project (\$102,000) to compare private attorney contractors, staff attorneys, and voucher attorneys.

As of November 30, 1986, the contractors had completed about 3,700 (or 38 percent) of the approximately 9,600 legal services cases contracted. LSC said it will analyze the results of this project when completed to determine whether it met its goals.

The Law School Civil Clinical Research Project

In 1984, LSC selected and funded 14 law schools out of the 57 schools that submitted competitive proposals to participate in this research project. These schools received a total of \$1.2 million in grants to help defray operating expenses to train their law students by providing legal services. The schools were required to expend these funds during the 1984 and 1985 school years and report case service data to LSC for evaluation and analysis. The grants totaling \$1,061,000 were originally awarded for an 18-month period. However, the LSC Board of Directors extended the grants for an additional 4 months to coincide with the end of the academic year. Additional funds totaling \$139,837 were provided to 13 of the 14 schools along with the time extension.

According to LSC, the project's objectives were to:

- Enhance the capacity of law school programs to educate and sensitize law students to legal issues most frequently affecting the LSC client population.
- Create a future group of lawyers interested in providing legal services to LSC clients.
- Increase cooperation between established law schools and all segments of the legal community.
- Augment existing service delivery provided by LSC field programs.

To achieve these objectives, LSC sought to stimulate the interest of and solicit proposals from a wide cross-section of accredited law schools in the United States. Accordingly, in March 1984, LSC announced in the Federal Register its intention to conduct a Law School Civil Clinical Research Program. Also LSC mailed solicitations for research proposals to all accredited law schools. In response 57 law schools submitted their research proposals to LSC.

To achieve geographic dispersion and include law schools from a cross-section of the country for this research project, LSC established seven regions within the United States and selected at least one school from each region. To make the selections, a committee composed of LSC staff and persons in the law school and legal services communities made recommendations by region. The LSC President made the final selections.

Table 2 shows the law schools selected, the level of funding, and the number of clients served during school years 1984 and 1985.

Table 2:

Law School Civil Clinical Project Funding
and Clients Served

<u>Grantee</u>	<u>Total award</u>	<u>Clients served</u>
University of North Dakota	\$68,800	275
Southern Methodist University	78,252	204
University of Virginia	95,000	176
University of Notre Dame	94,930	215
Vermont Law School	75,970	899
McGeorge School of Law	79,000	2,656
William Mitchell College of Law	89,444	156
Indiana University-Indianapolis	90,000	380
Gonzaga University	88,748	724
Loyola University of New Orleans	115,000	221
State University of New York-Buffalo	85,493	419
University of North Carolina	76,200	196
University of San Diego	54,000	138
St. Mary's University of San Antonio	<u>110,000</u>	<u>457</u>
Total	\$1,200,837 =====	7,116 =====

This project was completed in July 1986 and LSC's evaluation of the project found that law schools can satisfactorily provide services to LSC-eligible clients and augment the staff attorney model.

The Voucher Project

In 1985, LSC funded a voucher project in two locations--San Antonio, Texas, and Orange County, California. LSC has expended or committed \$432,500 of its program development funds for the project. According to one LSC official, a March 1985 study by the American Bar Association's Special Committee on the Delivery of Legal Services provided some impetus for conducting this research. Nonetheless, the final decision was made by LSC.

According to the study, a voucher system could give the poor the same free-market choice of an attorney to assist them with their legal problems as other consumers now enjoy. Further, it could be designed to encourage voucher recipients to shop for low-price market alternatives, thereby stimulating market competition among attorneys. Therefore, the more competitive legal service markets become, the lower legal fees on the average are likely to be. The study pointed out that this economic theory had not been tested and that it should be more fully evaluated.

The objectives LSC sought to achieve from the voucher project were to (1) determine the workability of the voucher method of delivering legal services and (2) compare the cost and quality of service to that provided by the private law firm contract and staff attorney models.

LSC designed the voucher projects so that the same number and types of legal cases would be handled under the voucher, private contract, and staff attorney models in a given geographical area. However, the types and number of cases chosen for these projects, which included contested and uncontested divorce, spouse abuse, child abuse, and child custody, were determined by the field programs and local organizations.

On September 23, 1985, LSC awarded the San Antonio Bar Association \$102,500 for voucher project cases. On August 28, 1986, LSC awarded the association an additional \$30,000 for administrative expenses and extended the contract to June 30, 1987. The San Antonio project had a caseload of 900 legal cases. The grant required that 300 cases be completed within 1 year under each of the voucher, private contract, and staff attorney models. As of November 30, 1986, 396 (or 44 percent) of the 900 cases had been completed.

On August 22, 1985, LSC awarded the Legal Aid Society of Orange County \$300,000 for a voucher project. However, the project did not begin until February 1986. The Orange County project caseload was 975 legal cases. The project plan required that 325 cases be completed within 1 year under each of the three service delivery models. As of December 16, 1986, 100 (or about 10 percent) of the 975 cases had been completed.

LSC will analyze the results of the project when each area has completed its caseload to determine whether LSC's research objectives were met, according to LSC program development officials.

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