

External Opinion
File # 99-29

December 6, 1999

Robert Hickerson, Executive Director
Alaska Legal Services Corporation
1016 West Sixth Avenue, Suite 200
Anchorage, Alaska 99501-1963

Dear Mr. Hickerson:

This is a response to your November 19, 1999 letter requesting additional clarification regarding the Corporation's program integrity regulations in 45 C.F.R. Part 1610. On September 16, 1999, we provided you with an opinion on a proposed plan under which Alaska Legal Services Corporation ("ALSC") would transfer its IOLTA funds to another organization under an agreement that the program would use the funds to administer a *pro bono* program. We found the plan to be consistent with the program integrity rules. Due to one change in the plan, you now ask whether it is still consistent with program integrity requirements. See OGC Opinion, EX 99-19.

Under the original plan, ALSC did not intend to share any employees, either full or part-time, with the organization. Under the revised plan, the support staff person would work part-time for the new program and part-time for ALSC. The only other staff member of the new program would be the program coordinator, who would still work exclusively for the new program.

One of the factors considered by the Corporation to determine compliance with program integrity is the existence of separate personnel, Section 1610.8(a)(3)(I), a factor to be considered in conjunction with other factors to determine whether there is sufficient physical and financial separation. Section 1610.8(a)(3). The sharing of one administrative staff person in this particular situation does not violate the program integrity requirements.¹ It is one small change to the original plan under which all other program integrity requirements are met by ALSC.²

¹ This opinion does not address a situation where the shared staff person is the program coordinator. If such a change is made, please consult with the Corporation.

² Please note that the Corporation's Board of Directors recently adopted revisions to the Corporation's timekeeping rule that will require attorneys or paralegals who work part-time for a recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient

I hope this adequately responds to your inquiry. Please let me know if you need any additional assistance in this matter.

Sincerely,

Suzanne B. Glasow
Senior Assistant General Counsel

resources for restricted activities. It is anticipated that this rule will be published within the month and will be effective 30 days after publication.