



LEGAL SERVICES CORPORATION
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John McKay
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April 10, 1998

Juan A. Gonzales, Executive Director
Legal Aid Society of Albuquerque, Inc.
121 Tijeras, N.E. Suite 3100
Albuquerque, New Mexico 87102

Dear Mr. Gonzales:

This is a response to your March 9, 1998 request for an opinion on whether Legal Aid Society of Albuquerque, Inc. (LASA) must apply income and alien eligibility requirements to its Violence Against Women Act (VAWA) grant.

LASA does not need to apply the Legal Services Corporation's (LSC or Corporation) income eligibility guidelines to clients served under the VAWA grant because the legal assistance is provided entirely with non-LSC funds and the LSC eligibility guidelines in 45 CFR Part 1611 apply only to clients served with LSC funds. Sections 1611.3(a) and (d) provide that:

(a) Every recipient shall establish a maximum annual income level for persons to be eligible to receive legal assistance under the [LSC] Act.

(d) Unless authorized by Section 1611.4, no person whose income exceeds the maximum annual income level established by a recipient shall be eligible for legal assistance under the [LSC] Act.

However, please be advised that Section 504(d)(2)(B) of Public Law 104-134¹ prohibits the use of non-LSC funds for any purposes prohibited by the LSC Act or the Corporation's

¹ This section of Public Law 104-134 has been incorporated by reference in the Corporation's FY 1998 appropriations act, Pub. L. 105-119.

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appropriations act. Thus, legal assistance under the VAWA grant may not include any prohibited activities.²

The alien eligibility guidelines, on the other hand, apply to all clients served by a recipient. Section 504(a)(11) of Public Law 104-134 and §1626.3 prohibit the Corporation from funding a recipient that provides legal assistance to certain categories of aliens, regardless of the source of funds used. However, an exception exists in Part 1626 for certain victims of domestic abuse. Section 1626.4 permits recipients to use non-LSC funds to provide legal assistance to aliens who are victims of domestic abuse as described in §1626.2(f) and (g) and 1626.4. It is likely that, most, if not all, clients served under the VAWA grant would fall within this exception.³ That is a determination that will need to be made by your program.⁴ You will not need to apply the alien eligibility standards to any VAWA clients that fall within the terms of the domestic abuse exception. However, if some of the clients served under the grant do not fall within the domestic abuse exception, you will need to apply the alien eligibility standards to determine whether they may be served. I have enclosed the preambles to the interim and final versions of the domestic abuse exception provisions in Part 1626 for your information.

I hope this adequately responds to your inquiry. Please let me know if I can provide any additional assistance.

Sincerely,



Suzanne B. Glasow

Senior Assistant General Counsel

² Generally, these prohibitions are listed in Part 1610. The eligibility guidelines constitute a requirement rather than a prohibition and are specifically applicable to LSC-funded legal assistance.

³ For example, the definition of “battered or subjected to extreme cruelty” is based on the regulatory definition of that term which implements subtitle G of VAWA.

⁴ Your fax indicated that you were sending the VAWA grant description but it did not arrive.