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Board of Directors
Legal Services Corporation
c/o Rebecca D. Weir
Assistant General Counsel
Legal Services Corporation
3333 K. Street NW
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Re: Comments on Fiscal Oversight Task Force Report and Recommendations

Dear LSC Board:

Thank you for the opportunity to comment on the July 28, 2011 report and recommendations of the Fiscal Oversight Task Force (Task Force.)

I would like to commend the Board for studying the issue of LSC's fiscal oversight of grantees and for creating the Task Force comprised of those who understand fiscal oversight. It is clear that the board is taking the issue of fiscal oversight seriously.

I have been fortunate to have had the opportunity to see fiscal oversight from several different perspectives – from overseeing the fiscal affairs of one's own program as the former executive director of two legal aid programs, to a funder overseeing the fiscal affairs of a grantee as a current LSC employee, to working as co-chair of the subcommittee of LSC's Fiscal Operations Advisory Committee in developing the 2010 revisions to the Accounting Guide for LSC Recipients, to overseeing the finances of a small nonprofit as the former chair of the board of directors. But I am not an expert on fiscal oversight and have been happy to learn of good solid internal control suggestions and fiscal practices that have proven effective.

In response to the Board's request for public comments on the report, I offer the following:

- **The Task Force report contains many helpful comments and recommendations.** The Task Force's report contains a variety of helpful comments and suggestions, all with the goal of improving LSC's fiscal oversight of grantees. Particularly helpful recommendations include:
 - “Develop a written set of protocols and guiding principles to govern the working relationship between the OIG and management...” (Recommendation II.C.1, p. 15.)

- Institute an LSC-wide risk assessment process that takes into consideration information from multiple sources, including input of the OGA, OIG, IPA, and GAO audit and assessment results. (Recommendation III.A.1, p. 16.)
- “Increase the focus given to evaluating grantees’ adherence to the guidance and expectations established in the Accounting Guide for LSC Recipients.” (Recommendation III.B.2, p. 17.)
- “Create a common system for the storing and viewing of appropriate information related to grantee operations and oversight, including general grantee demographic information (e.g., payments to date, date of last review) and specific information related to oversight activities (e.g., prior recommendations and status of corrective actions, budget monitoring tools, performance metrics) among all parties involved in fiscal oversight.” (Recommendation III.C.7, p. 18.)
- “Conduct a cost-benefit analysis related to the level of information collected from grantees to determine if additional information would be practical to obtain from grantees and useful for management’s fiscal oversight activities while not placing an undue burden on grantees, and to determine if the information currently collected is necessary.” (Recommendation III.C.8, p. 18.)
- “Identify and communicate expectations and responsibilities to grantees, and the related best practices or recommendations for grantee management, including placing an increased emphasis on the guidance in the Accounting Guide for LSC Recipients and any specific terms and conditions contained in the grant agreement with LSC.” (Recommendation IV.C.1, p. 20.)
- “In particular, set clear expectations with grantees that they are responsible for creating a culture of ethics, compliance, and a system of financial controls designed to deter and detect fraud and promote the effective and efficient use of funds received. Help grantees to achieve this culture and system through training or otherwise, especially when requested. This could include holding simple webinar programs on a rotating basis and providing an increased level of information targeted toward grantees through the LSC website. Also, help grantees to understand the legal and statutory context of LSC’s fiscal oversight activities (e.g., LSC’s responsibilities as a grant maker dispensing public funds).” (Recommendation IV.C.2, p. 20.)
- “Provide a training program or other resources to grantees that are new to LSC funding or have identified risks in their capacity to steward the funding provided.” (Recommendation IV.C.3, p. 20.)
- “Consider the formation of “communities of practice” or networks of support among grantees, to allow grantees to learn from identified strong performers and possibly to receive additional guidance related to designing and implementing an appropriate control and management environment.” (Recommendation IV.C.4, p. 20.)
- “Encourage grantee Boards of Directors to appoint non-Board members with experience in accounting, finance, and internal controls to serve on the grantee’s key financial related committees (such as the finance and audit committees), where needed.” (Recommendation IV.C.5, p. 20.)

- **The task force findings and recommendations should be viewed as preliminary; a number of other areas should be considered prior to LSC making broad changes in the name of fiscal oversight.** The Task Force makes clear that it was not evaluating LSC's role in promoting quality or in conducting non-fiscal oversight and compliance. Yet in making the recommendations that OPP, OCE and OIM be consolidated into a new office called the Office of Grantee Assessment (OGA) and that LSC should appoint a Vice President-level individual to lead OGA whose background includes grants management and internal controls (Recommendations II.A 1 and 2), the Task Force makes broad recommendations that could adversely impact on other important functions of LSC. For example, had a task force been established to make recommendations on how LSC could improve the provision of high-quality legal representation of clients by grantees, recommendations may have been made to reorganize LSC along quality lines with a Vice President who has significant poverty law litigation experience. Similarly, a task force on non-fiscal oversight and compliance may have made recommendations organized around non-fiscal oversight and compliance concerns.

A variety of alternatives to some of the Task Force's recommendations need to be considered. For example, it may very well be more effective and efficient to create a properly staffed fiscal oversight unit within LSC, as opposed to merging OPP, OCE and OIM into one office.

- **The Task Force would have benefited by having key stakeholders.** By not including many key stakeholders on the Task Force, including some chief financial officers (CFO) and executive directors of grantee programs, a broader representation of other legal services funders, and current Federal Government or related agency employees who oversee grant programs, the Task Force's recommendations lack an important perspective of the environment in which grantees and LSC operate. In working with LSC's Fiscal Operations Advisory Committee, which contained eight CFOs from LSC grantees including five grantees whose programs had no negative findings following a GAO visit examining fiscal practices, and representatives from several LSC offices, we found the grantee CFO suggestions particularly helpful. While LSC and its grantees are clearly in different positions, there are considerable similarities of interests when it comes to fiscal affairs. LSC has an interest in ensuring that its funds are properly spent and not misused or stolen. Grantees have the same interest. LSC wants to be assured that its grantees maintain sound fiscal practices that minimize and possibility of the misuse of funds. Grantees have the same interest. LSC clearly is upset when its funds are misused or stolen. The few grantee executive directors to whom I have spoken who had experienced employee embezzlement in their programs were livid.
- **The Board is urged to have an open mind in suggestions received from key stakeholders.** The board's decision to request public comments on the Task Force's report and recommendations is much appreciated. However, while the public comment period allows an opportunity for key stakeholders to offer suggestions, I am concerned that the Task Force's recommendations are essentially set in cement given the representations made to Congress and others that LSC established the Task Force to study fiscal oversight and make recommendations. To now reject or substantially modify

some of the recommendations may prove to be awkward. The Board is urged to have an open mind to suggestions received from key stakeholders. If a small number of comments are received from key stakeholders, an effort should be made to begin a discussion with them about the Task Force's recommendations.

- **LSC should be involved in providing fiscal oversight training and support to grantees.** I strongly support the Task Force's recommendations concerning LSC providing training and assistance on fiscal oversight to grantees. (Recommendations IV.C, 2-4, p. 20.) Section 2996e (a)(3) of the LSC Act specifically authorizes LSC "to undertake directly, or by grant or contract ... (B) training and technical assistance and (C) to serve as a clearinghouse for information." I have been involved as a presenter in several training sessions on the 2010 Accounting Guide for LSC Recipients, including sessions on internal controls, at national legal aid conferences and have found keen interest from LSC and non-LSC grantees in financial oversight issues. Unlike in the area of the reporting of cases, LSC has not taken on the role of extensive fiscal oversight training for grantees. Grantees are LSC's partners in the provision of legal assistance. Providing fiscal internal control training and support to grantees is an important step towards advancing the shared interest of fiscal oversight and safeguarding funds.
- **LSC's Office of Inspector General (OIG) has a critical programmatic role in the oversight of independent public accountants' duty to oversee grantee internal controls.** It is clear that Congress intends that independent public accountants for grantees, under guidance from the OIG, must report on whether "the recipient has internal control systems to provide reasonable assurance that it is managing funds, regardless of source, in compliance with Federal laws and regulations." See the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (language has been incorporated in each subsequent appropriations bill.) It is also clear that Congress intends that "only the Office of the Inspector General shall have oversight responsibility to ensure the quality and integrity of the financial and compliance audit process." See the conference report accompanying the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (House Report 104-537.) Thus, the OIG has been given a significant programmatic responsibility by Congress: to oversee independent public accountants who are required to report on the adequacy of a grantee's internal controls and to receive and review the independent public accountant financial statements and reports. OIG requires that independent public accountants submit audited financial statements to the OIG within 120 days of the end of a grantee's fiscal year. See Audit Guide for Recipients and Auditors, I-9B. "As part of the review of internal controls, the auditor is required to evaluate the effectiveness of the recipient's accounting system and internal controls. The primary objectives of this evaluation are to ensure that resources are safeguarded against waste, loss and misuse, and that resources are used consistent with LSC regulations and grant conditions." See Audit Guide, II-2.

Yet, given the significant programmatic role that Congress has given the OIG when it comes to fiscal oversight of grantees, including grantee internal controls, the Task Force fails to adequately consider the OIG's role in fiscal oversight of grantees. By doing so, it lost an opportunity to comprehensively address the issue of fiscal oversight. As noted in the report's cover letter, "[a] comprehensive analysis of LSC's fiscal oversight functions

would be incomplete, however, if it did not also address the role of the OIG. While the majority of this report focuses on the responsibilities of LSC's leadership and management, we encourage the Inspector General and his staff to evaluate and consider the Task Force's recommendations to the extent that they are also applicable to OIG operations." (Letter from co-chairs of Task Force, p. ii.)

As the Task Force report states, "LSC has established the foundation for a strong control environment, creating guidance through the Accounting Guide for LSC Recipients." (p.8.) While fiscal oversight is critical, we should not lose sight of LSC's main mission. As Congress has stated, LSC was established "to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel." Section 1001(2) of the LSC Act.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chuck Greenfield".

Chuck Greenfield
Program Counsel
Legal Services Corporation