



June 28, 2002

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Director of Finance  
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Baton Rouge, Louisiana 70821

Superseded by EX-2002-1009

**RE: Request for Opinion on Subgrantee Timekeeping, External Opinion  
No. 2002-1007**

Dear Ms. Pratt:

I am writing in response to your inquiry to Willie Abrams, Program Counsel in the Legal Services Corporation’s (LSC) Office of Program Performance, regarding LSC’s timekeeping regulation, 45 C.F.R. ‘ 1635. You indicated that a subgrantee of Capital Area Legal Services Corporation (“CALSC”) has two *pro bono* coordinators who place cases with *pro bono* attorneys. One coordinator is a paralegal and the other is an attorney. Both coordinators work full-time in positions funded entirely by LSC. You have inquired whether these employees are subject to the requirements of Part 1635, in light of the fact that they do not actually handle cases but merely place them with *pro bono* attorneys.

The articulated purpose of Part 1635 is “to improve accountability for the use of all funds of a recipient by (a) [a]ssuring that allocations of expenditures of LSC funds pursuant to 45 CFR part 1630 are supported by accurate and contemporaneous records of the cases, matters and supporting activities for which the funds have been expended; (b) enhancing the ability of the recipient to determine the cost of specific functions; and (c) increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations.” 45 C.F.R. ‘ 1635.1.

Section 1635.3(b) provides that “[t]ime spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. (1) Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient.” [Emphasis added.] 45 C.F.R. ‘ 1635.3(b)(1).

As employees whose work is funded entirely by LSC, the *pro bono* coordinators fall squarely within the scope of the timekeeping requirement as articulated in Section 1635.3(b)(1). Additionally, timekeeping by these employees serves each of the stated purposes for Part 1635, enumerated in the second paragraph above. Accordingly, it is the opinion of this office that the *pro bono* coordinators at issue are required to comply with the timekeeping regulation.

Please note that if either of these coordinators worked part-time for your subgrantee and part-time for an organization that engaged in restricted activities (i.e. activities for which Congress has forbidden the use of LSC funds), they would be required to submit to CALSC written certification that they had not engaged in restricted activity during any time for which they were compensated by CALSC and that they have not used CALSC resources for restricted activities. 45 C.F.R. § 1635.3(d). However, based on the facts you have presented, it does not appear as if the coordinators are in this situation at this time.

If you have any additional questions regarding this matter, please feel free to contact me at (202)336-8871.

Sincerely,

Dawn M. Browning  
Assistant General Counsel

Victor M. Fortuno  
General Counsel