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Description of document: Listing of Legal Services Corporation (LSC) Office of Inspector General (OIG) Management Information Memoranda (MIMs) producible from the LSC OIG computer tracking system (2017) and copies of eleven (11) Management Information Memoranda, 2008-2016

Requested date: 31-January-2017

Released date: 08-February-2017

Posted date: 27-February-2017

Source of document: FOIA Request
Legal Services Corporation
Office of Inspector General
FOIA Officer
3333 K Street, NW
Washington, DC 20007-3522

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Office of Inspector General
Legal Services Corporation

3333 K Street, NW, 3rd Floor
Washington, DC 20007-3558
202.295.1660 (p) 202.337.6616 (f)
www.oig.lsc.gov

February 8, 2017

Re: FOIA Request 17-3

This is in response to your Freedom of Information Act (FOIA) request, received in this office on January 31, 2017, seeking “[a] digital/electronic copy of the following Management Information Memoranda/Management Information Memorandums (MIMs):

Dues Payments (2008)
Grantee Data Reporting (2008)
Automated Accounting Records (2008)
Delinquent Travel Expense Reports (2008)
Quid Pro Quo Contributions (2008-2009)
Restricted Activities section 1635.3(d) - (2008-2009)
Outside Practice of Law (2010)
Bank Deposit Insurance Coverage (2012-2013)
Grantee’s Personnel Compensation Data Collection (2013-2014)
Prompt Reporting of Potential Fraud Indications (2014 – 2015)
Grantee Contracting Policies and Procedures (2016).”

In addition, you requested “a listing/printout of the list of Management Information Memoranda producible from the LSC IG computer tracking system.”

Enclosed please find forty-six (46) pages of information responsive to your request, all of which are being released in full.

If you are dissatisfied with this response you may appeal, within 90 days of your receipt of this letter, to:

Jeffrey E. Schanz, Inspector General
Legal Services Corporation

3333 K St., N.W., 3rd Floor
Washington, DC 20007

Both the envelope and the letter must be clearly marked "Freedom of Information Act Appeal."

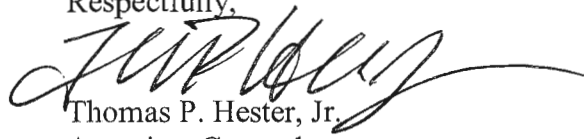
In addition, if you are dissatisfied with this response you may seek dispute resolution services from the OIG's FOIA Public Liaison at the following address:

John Seeba
FOIA Public Liaison
Legal Services Corporation
3333 K St., N.W., 3rd Floor
Washington, DC 20007

If you are dissatisfied with this response you may also seek dispute resolution services from the Office of Government Information Services at the following address:

The U.S. National Archives and Records Administration
Office of Government Information Services
8601 Adelphi Road - OGIS
College Park, MD 20740-6001

Respectfully,

A handwritten signature in black ink, appearing to read "T. P. Hester, Jr.", with a long, sweeping horizontal line extending to the right.

Thomas P. Hester, Jr.
Associate Counsel
Office of Inspector General
Legal Services Corporation

**OIGCONNECT**

Connect > Executive ▶ MIMs All Documents



1 Like It

Tags &
Notes

<input type="checkbox"/> Type	Name	Modified	<input type="checkbox"/> Modified By
	2008 MIMs	4/3/2013 11:35 AM	Magali Khalkho
	2009 MIMs	3/13/2013 2:26 PM	IG\abacus
	2010 MIMs	4/3/2013 11:58 AM	Magali Khalkho
	2013 MIMs	3/29/2013 3:38 PM	David Maddox
	2014 MIMs	3/27/2014 5:33 PM	Magali Khalkho
	2015 MIMs	2/24/2015 9:12 AM	Magali Khalkho
	2016 MIMs	4/14/2016 5:16 PM	David Maddox



Connect > Executive ► MIMs2008 MIMs All Documents



<input type="checkbox"/> Type	Name	Modified	Modified By
	MIM 1 and Mgt Response	3/13/2013 2:26 PM	IG\abacus
	MIM 2 and Mgt Response	3/13/2013 2:26 PM	IG\abacus
	MIM 3 and Mgt Response - Travel Purpose	3/13/2013 2:26 PM	IG\abacus
	MIM 3 on Travel Purpose Final	3/13/2013 2:26 PM	IG\abacus
	MIM 4 and Mgt Response on Delinquent Travel expense reports	3/13/2013 2:26 PM	IG\abacus
	MIM 4 on Delinquent Travel Expense Reports Final	3/13/2013 2:26 PM	IG\abacus
	MIM 4 on travel expense reports	3/13/2013 2:26 PM	IG\abacus

**OIGCONNECT**

Connect > Executive ▶ MIMs2009 MIMs All Documents



1 Like It

Tags &
Notes

<input type="checkbox"/> Type	Name	Modified	<input type="checkbox"/> Modified By
	Management Response to MIM09-02	3/13/2013 2:26 PM	IG\abacus
	MIM 09-02 Part Time Attorney Concerns	3/13/2013 2:26 PM	IG\abacus
	MIM09-01 and Management Response	3/13/2013 2:26 PM	IG\abacus
	MIM09-02	3/13/2013 2:26 PM	IG\abacus



Connect > Executive ▶ MIMs2010 MIMs All Documents



<input type="checkbox"/> Type	Name	Modified	<input type="checkbox"/> Modified By
	MIM 10-001	3/13/2013 2:26 PM	IG\abacus



Connect > Executive ► MIMs2013 MIMs All Documents



☐ Type Name

Modified

☐ Modified By



FDIC MIM 3292013 Final Signed

3/29/2013 3:38 PM

David Maddox



Memorandum- Legal Services of Greater Miami

12/18/2013 2:16 PM

Magali Khalkho



MIM- Dakota Plains-August 26 2013

8/27/2013 3:58 PM

Magali Khalkho



Connect > Executive ▶ MIMs2014 MIMs All Documents



I Like It



Tags &
Notes

☐ Type Name

Modified

☐ Modified By



MIM- Grantees' Personnel Compensation Data Collection- 03-27-14

3/27/2014 5:33 PM

Magali Khalkho



Connect > Executive ▶ MIMs2015 MIMs All Documents



<input type="checkbox"/> Type	Name	Modified	<input type="checkbox"/> Modified By
	MIM- Prompt Reporting of Potential Fraud Indicators to the OIG	2/24/2015 9:12 AM	Magali Khalkho



Connect > Executive ▶ MIMs2016 MIMs All Documents





<input type="checkbox"/> Type	Name	Modified	<input type="checkbox"/> Modified By
	MIM 16-01 Procurement	4/14/2016 5:18 PM	David Maddox



Inspector General
Jeffrey E. Schanz

MEMORANDUM

TO: Helaine Barnett
President

FROM: Jeffrey Schanz
Inspector General  

DATE: April 21, 2008

SUBJ: Management Information

As part of the Inspector General's responsibility to keep management informed, I am sending information on a preliminary finding discovered at a grantee that may be a concern at other grantees. LSC funds were being used to pay National Legal Aid and Defenders Association membership dues on behalf of program staff in violation of 45 CFR 1627.4. The regulation states that "LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, whether on behalf of a recipient or an individual." These payments, totaling approximately \$2,700 per year, were made for a number of years and seemed to be considered an acceptable practice. This could be a result of weak internal controls, failure to follow internal controls, or a weak internal control environment.

Future visits to other grantees by OCE and OPP could be used to determine if this is a systemic problem that management needs to address LSC-wide.

Should you have any questions on this management information memorandum, please contact me or Dutch Merryman.

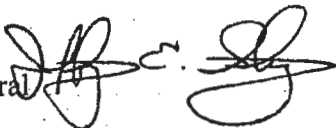
cc: Karen Sarjeant
Vice President for Programs and Compliance



2
Legal Services Corporation
Office of Inspector General

Inspector General
Jeffrey E. Schanz

TO: Helaine Barnett
President

FROM: Jeffrey Schanz
Inspector General 

DATE: June 6, 2008

SUBJ: LSC Grantee Profile and the Grantee Reports ("GREPS")—
Management Information Memorandum

As part of the Inspector General's responsibility to keep management informed, I am sending information discovered during the course of an Office of Inspector General ("OIG") inquiry relying on LSC Grantee Profile and the Grantee Reports ("GREPS"), which revealed problems with the accuracy of data from two grantee programs for years 2005 and 2006. The two programs are Community Legal Services of Mid-Florida, Inc. ("Mid-Florida") and Southeast Louisiana Legal Services Corporation ("Southeast Louisiana"). Specifically, 2005 and 2006 GREPS data indicated that these programs almost exclusively employed part-time attorneys. In addition, almost all of the part-time attorneys were employed in 93% of full-time capacity. Unfortunately, it turned out that our inquiry, which included a visit to one program, was based on flawed GREPS data caused by the two programs.

For 2006, GREPS data for Mid-Florida indicated that the program had 30 attorneys, 28 of whom were employed in a 93% capacity. For 2005, GREPS data indicated that the program had 35 attorneys, 32 of whom were employed in a 93% capacity. For 2006, GREPS data for Southeast Louisiana indicated that the program had 46 attorneys, 32 of whom were employed in a 93% capacity. For 2005, GREPS data indicated that the program had 37 attorneys, 26 of whom were employed in a 93% capacity. Due to the high number of part-time attorneys employed in a 93% capacity at Mid-Florida and Southeast Louisiana as reported in GREPS data, the OIG contacted both programs to understand why they employed so many part-time attorneys.

The OIG inquiry revealed that the attorneys employed in a 93% capacity at the two programs were in fact full-time attorneys. The attorneys worked 37.5 hours a week, which the programs considered full-time. However, when the programs entered 37.5 hours into LSC Grant Activity Reports ("GARS"), GREPS computed their work hours into a part-time, 93% capacity. This error occurred because the default setting in GARS for a full-time work week is 40 hours, and unless the program changes the default setting to 37.5 hours, GREPS computes 37.5 hours as being 93% of a 40-hour work week.

In these two instances, the noted reporting errors occurred because the programs did not follow the instructions in GARS regarding the method of reporting full-time/part-time status. The GARS instructions advise programs that the default work week for full-time employees is 40 hours. The GARS instructions further advise programs whose employees work fewer than 40 hours per week, that the program must change the default setting to reflect the actual scheduled number of weekly work hours, which can range from 35 to 40 hours. After the OIG informed both programs of this reporting error, both programs confirmed they would change their default setting to 37.5 hours per week.

The OIG is calling this information to your attention for whatever action you deem appropriate, including possible discussion at the upcoming Executive Directors meeting. We hope this Management Information Memorandum will assist in your efforts to improve the accuracy and usefulness of data gathered from LSC programs. Should further information be required, please do not hesitate to contact Tom Coogan, Assistant Inspector General for Investigations, on x1651.

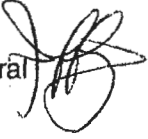
cc: Karen Sarjeant
Vice President for Programs and Compliance




MEMORANDUM

Inspector General
Jeffrey E. Schanz

TO: Helaine Barnett
President

FROM: Jeffrey Schanz
Inspector General 

DATE: July 9, 2008 

SUBJECT: Management Information Memorandum – Automated Accounting Records Improvement Needed

As part of the Inspector General's responsibility to keep management informed, this memorandum provides information on an observation made during the OIG's work related to the April 21, 2008 congressional inquiries. The OIG found that LSC's automated accounting system, in most cases, does not contain the information needed to correlate travel expenditures with the purpose of a trip. In order to produce the requested information to Congress, the OIG requested that the Comptroller manually extract from LSC's paper travel forms the purpose of each trip and integrate it into the appropriate electronic records. Unfortunately, this is a time-consuming process. The accounting system can already accept, and in a small number of instances, does contain travel purpose information. Therefore, the OIG recommends that LSC develop standardized travel purpose codes and require their use and capture in the accounting system for each automated travel expense record from this point forward. This recommended action can help to improve the transparency and accountability of LSC's use of federal funds. It can also provide management better project costing information for use future project planning and performance.

Should you have any questions on this management information memorandum, please contact me or David Maddox, Assistant IG for Management and Evaluation at x-1653.

cc: Charles Jeffress
Chief Administrative Officer

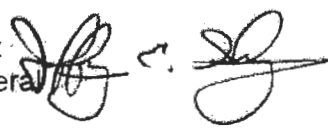
David L. Richardson
Treasurer and Comptroller



MEMORANDUM

Inspector General
Jeffrey E. Schanz

TO: Helaine Barnett
President

FROM: Jeffrey Schanz 
Inspector General

DATE: September 19, 2008

SUBJ: Management Information Memorandum (MIM) – Delinquent Travel Expense Reports

As part of the Inspector General's responsibility to keep management informed, this memorandum provides additional information on a discovery made during the OIG's work related to the April 21, 2008 congressional inquiry, specifically in regards to LSC travel expenditure documentation and payment practices, as I discussed with you at our regular President-IG meeting yesterday.

While reviewing travel expense records for 2007 and 2008 produced by the Comptroller, and through subsequent conversations, the OIG has recognized that LSC is currently unable to accurately track travel expenditures already paid because travel expense reports are not submitted in a timely fashion. Moreover, it appears that LSC managers are not effectively ensuring that travelers are submitting the required travel expense reports on time.

LSC administrative policy requires that an accurate and factual expense report be submitted to an approving official within 30 days of returning from a trip.¹ If a report is submitted after the 30-day period has elapsed, the traveler must submit a written explanation for the late report. If the report is not submitted with a lateness justification, the traveler may be ineligible for reimbursement for otherwise properly incurred travel expenses. There is no LSC guidance, however, on when the Corporation can extinguish all outstanding travel obligations, in order to protect itself and ensure accurate accounting.

In the administration of travel and the GSA travel credit card program, LSC is often directly billed for hotel and airfare fees for such items as business meetings, conferences and grantee visits. Regardless of whether the traveler has submitted a travel expense report, the Corporation is paying

¹ LSC Administrative Manual, Chapter 5 – Business Travel, Part I – General Policies and Authorities, E. Traveler's Responsibilities, as revised March 2007.

such bills if secondary documentation sources are available. On the other hand, there are also instances in which travel expenses are billed directly to the traveler (including travel expenses paid with a personal credit card; cabs; per diem allowances; other reimbursable expenses; and any instances of directly billed LSC expenditures) where secondary documentation is not available to the Comptroller's office. Such expenditures create open obligations for LSC until the travel expense report is produced or LSC closes the reimbursement eligibility period. This leaves the Corporation in a position where it cannot accurately track a portion of its resources expended, as found by OIG in its follow-up to the congressional question on recent LSC travel.

It appears that the necessity of timely submitting travel vouchers has not been effectively communicated to LSC travelers, who may view the expense report as required only for purposes of reimbursement and erroneously believe they are doing the Corporation a favor by not submitting a travel expense report with a per diem charge. In fact, regardless of whether it includes a per diem charge, the voucher plays a crucial role in documenting that the relevant LSC funds were expended for a business purpose.

The LSC Comptroller is aware of these issues, as we have been working with him on the review of LSC travel data. LSC has already taken some corrective actions, including: a new tracking system for travel expenses billed directly to the corporate account; following up directly with corporate travelers on outstanding expense reports; and suspending LSC credit cards of employees whose travel expense reports are overdue.

In order to improve LSC's accountability in its use of federal funds, the OIG recommends that management continue to take appropriate steps to clear the backlog of outstanding reports for a determined time-period. Travelers and managers must be fully informed and held accountable for producing these reports as required by policy. Beyond the corrective actions noted above, please consider the following additional ideas:

- a. Strengthen communication on the importance of completing a travel expense report on time for the proper accounting of corporate resources and to justify LSC's resource expenditures to all travelers and supervisors; include a statement on this topic in LSC's travel expense policy; issue occasional written reminders; and possibly mention the policy on the travel documents themselves.
- b. Promote more active supervisor oversight of the timely submission of travel expense forms and recommend that supervisors create expense report due date ticklers when travel authorization forms are created.
- c. Promptly communicate with managers and travelers upon the receipt of an invoice for which a travel expense report has not been submitted.
- d. Create a defined cutoff period for the submission of delinquent travel expense reports, thereby extinguishing LSC's open obligations and ensuring accurate accounting.

Should you have any questions on this management information memorandum, please contact me or David Maddox, Assistant IG for Management and Evaluation at x1653.

cc: Charles Jeffress
Chief Administrative Officer


David L. Richardson
Treasurer and Comptroller



**Legal Services Corporation
Office of Inspector General**

Inspector General
Jeffrey E. Schanz

TO: Helaine Barnett
President

FROM: Jeffrey Schanz
Inspector General 

DATE: March 27, 2009

SUBJECT: Management Information Memorandum

As part of the Inspector General's responsibility to keep management informed, this memorandum provides information developed by my office from a September 11, 2008 referral from the Office of Compliance and Enforcement ("OCE") regarding Memphis Area Legal Services ("MALS"). The OCE referral concerned possible tax implications involving MALS' employees who contributed a certain amount to MALS' Equal Justice Campaign ("EJC"). The OIG is bringing this matter to your attention in the event LSC deems it appropriate to advise programs that might be conducting similar fundraising activities about the Internal Revenue Service ("IRS") requirements, discussed more fully below, which it appears MALS did not follow.

Our investigation into the allegations contained in the referral found that MALS provided up to two administrative days off per year, from 2003 to 2007, as determined by the Executive Director, to staff who made financial contributions to their EJC. In order to receive time off, attorneys and management staff must have contributed at least \$100 and all other staff \$50. MALS provided individual letters to its staff contributors thanking them for their donation, and acknowledging the total amount of their donation. The letter further advised staff to retain the letter as proof of their charitable contribution when filing their federal tax return.

As indicated in the OCE referral, under IRS rules, a charitable organization like MALS must provide a written disclosure statement to donors of a *quid pro quo*¹ contribution in excess of

¹ 26 U.S.C. § 6115(b) defines *quid pro quo* contribution as "a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization."

\$75.² The statement must provide the donor with the amount of the donation as well as a good faith estimate of the value received by the donor. While the letter MALS provided staff acknowledged their donation, and the total amount of their donation, the letter did not provide staff with a good faith estimate of the value of the administrative leave they received in exchange for their donation. Additionally, the letter MALS provided to staff advised staff to retain the letter as proof of their charitable contribution when they filed their federal tax return, but it did not inform staff that the amount of the deduction was limited to the amount of the donation over the value of the time off as required.

As a result of our investigation, OIG has been advised that MALS has voluntarily discontinued this *quid pro quo* staff fundraising activity. MALS also stated that notification would be provided to affected staff for the years this activity was conducted, along with appropriate letters. Furthermore, MALS has taken a proactive step to change the wording of its letters to its donors regarding the nature of their contribution to MALS which now advises donors "your contribution came to MALS as an outright gift, and MALS did not provide goods or services in exchange for that support."

OIG is advising you of this matter because of the potential that violations of IRS regulations could have an adverse impact on programs that do not comply with the requirements of § 6115 when conducting fundraising activities that involve a *quid pro quo* element. Violations of § 6115 carry a fine of \$10 per contribution for which a written statement was not provided, with a total maximum penalty of \$5,000 per fundraising event.³ The OIG is bringing this matter to your attention in order to prevent programs from being fined, thereby diminishing their limited resources, as well as to ensure programs comply with applicable federal laws and regulations. We recommend that LSC advise grantee programs of their obligations to be aware of and in compliance with IRS rules if they participate in this type of *quid pro quo* fundraising activity.

Should you have any questions on this management information memorandum, please contact me or Thomas Coogan, Assistant Inspector General for Investigations, at x1651.

cc: Karen Sarjeant
Vice President for Programs and Compliance

² 26 U.S.C. § 6115(a) provides: "If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution in excess of \$75, the organization shall, in connection with the solicitation or receipt of the contribution, provide a written statement which--(1) informs the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and (2) provides the donor with a good faith estimate of the value of such goods or services."

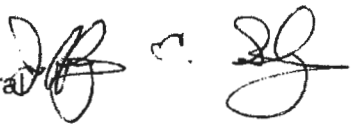
³ 26 U.S.C. § 6714(a) provides: "If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of \$10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed \$5,000."



MEMORANDUM

Inspector General
Jeffrey E. Schanz

TO: Helaine Barnett
President

FROM: Jeffrey Schanz 
Inspector General

DATE: March 31, 2009

SUBJ: Management Information Memorandum (MIM) — 45 C.F.R. § 1635.3(d)
Quarterly Certification Forms

As part of the Inspector General's responsibility to keep management informed, I am sending information discovered during the course of several recent Office of Inspector General ("OIG") investigations of grantee compliance with various LSC regulations. In particular, OIG investigations at three separate LSC grantees indicated non-compliance with 45 C.F.R. § 1635.3(d). Part 1635 requires attorneys and paralegals who "work[] part time for ... organization[s] that engage in restricted activities to certify in writing that [they have] not engaged in restricted activity during any time for which [they were] compensated by the [grantee]." 45 C.F.R. § 1635.3(d). This certification must also state that part-time attorneys and paralegals "[have] not used recipient resources for restricted activities." *Id.* LSC grantees must require part-time attorneys and paralegals to make certifications pursuant to 45 C.F.R. § 1635.3(d) on a quarterly basis. Our investigations, however, revealed that at least three grantees either did not require all of their designated part-time attorneys or paralegals to submit quarterly certification forms or do not contemporaneously collect these forms on a quarterly basis.

During our reviews, we found that two grantees, Alaska Legal Services Corporation and Community Legal Services of Mid-Florida, Inc., did not receive quarterly certification forms from some of their part-time attorneys and paralegals and did not receive completed certification forms from part-time attorneys and paralegals who did submit a certification. In addition, many of these forms were not filed on time at the end of each quarter but were instead signed well after the end of each quarter. The OIG's findings at these two programs demonstrate a need for programs to become more vigilant in collecting complete and timely data from all of their part-time attorneys and paralegals for two additional reasons. Section 1635.3(d) is designed to discourage part-time employees from using scarce program resources in their outside work. Failure to comply with the requirements of this section may actually encourage an abuse of limited LSC resources. In this time of increased focus on internal controls and LSC's oversight responsibilities, it is important to observe that Part 1635 was designed to "[i]ncrease information available to LSC for assuring [grantee] compliance with Federal law and LSC rules and regulations." 45 C.F.R. § 1635.1(c). Non-compliance with the

certification requirements found in 45 C.F.R. §1635.3(d), limits the information available to LSC and strikes directly at LSC's continued capability to carry out its inherent grant oversight responsibilities.

During the course of our reviews, a third grantee, Georgia Legal Services Program ("GLSP"), informed OIG investigators that its part-time attorneys were not required to submit quarterly certification forms unless they worked for an organization, which it defined as a group of individuals employed for an ordinary business purpose. According to GLSP, part-time attorneys who engage in restricted activities as private practitioners are not subject to the certification requirements of 45 C.F.R. § 1635.3(d). Because the part-time staff at GLSP work as private practitioners rather than employees of another organization, GLSP did not require that they submit quarterly certification forms. Consequently, GLSP did not collect certifications from all of its part-time attorneys and paralegals.

The approach adopted by GLSP appears contrary to the intent of the certification requirement set forth in 45 C.F.R. § 1635.3(d), which aims to ensure that limited LSC resources are not misallocated to restricted activities. GLSP's reading of 45 C.F.R. § 1635.3(d) highlights a serious flaw in the language of the certification requirement. Regardless of whether GLSP has correctly interpreted the language of 45 C.F.R. § 1635.3(d), LSC should clarify the rule.

In addition, I would also like to reference my June 6, 2008 MIM regarding LSC Grantee Profile and Grantee Reports, which dealt with the issue of inaccurate reporting date for part-time attorneys. The information disclosed during our three investigations indicates a further lack of attention to or misunderstanding by programs regarding their reporting responsibilities, which increases the opportunity for data and reporting errors such as those reported previously.

The OIG is calling this information to your attention for whatever action you deem appropriate. We respectfully suggest that OCE review compliance with § 1635.3(d) during all future program visits, a review which we understand is not currently being conducted. In addition, you may wish to periodically confirm whether grantees have submitted complete and timely quarterly certification forms. The OIG will continue to inquire about grantee compliance with § 1635.3(d) during our audits and investigations and report any continued concerns about non-compliance with this code section.

We hope this Management Information Memorandum will assist in your efforts to improve record keeping and the completeness of information required to be maintained by LSC programs. Should further information be required, please do not hesitate to contact me or Tom Coogan, Assistant Inspector General for Investigations, on x1651.

cc: Karen Sarjeant

Vice President for Programs and Compliance




Office of Inspector General
Legal Services Corporation

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MEMORANDUM

TO: Victor M. Fortuno
Interim President

FROM: Jeffrey E. Schanz 
Inspector General

DATE: June 7, 2010

SUBJECT: Management Information Memorandum 10-001

As part of the Inspector General's responsibility to keep Legal Services Corporation ("LSC") management informed, this memorandum provides information concerning the outside practice of law by Executive Directors of legal service programs that receive LSC funding. Recently, the Office of Inspector General ("OIG") has received complaints about Executive Directors engaging in the outside practice of law. Our inquiries have revealed that Executive Directors, unlike other full time program attorneys, are not always obtaining approval for their outside practice of law.

Pursuant to 42 C.F.R. § 1604.4, a full time legal service attorney may engage "in a specific case or matter that constitutes the outside practice of law" if permitted by the Executive Director or the director's designee, and if certain criteria are met¹. Therefore, full time program attorneys, who want to practice law outside their program duties, are required to obtain the permission of their Executive Director or a designee. Most Executive Directors are also considered full time program attorneys, and therefore subject to the regulation. The regulation as it pertains to Executive Directors, however, can be read several ways, including that Executive Directors need no approval because the regulation is not applicable; may "self-approve" or have a designee approve, following the language of the regulation; or by implication, in the absence of a clear approval process, may not be eligible for the outside practice of law.

OIG has identified several instances where Executive Directors have not sought approval of their outside practice of law. For several reasons, we are of the opinion that this regulation, and the

¹ Section 1604.4(c): The attorney is (1) newly employed and has a professional responsibility to close cases from a previous law practice, and does so on the attorney's own time as expeditiously as possible; or (2) acting on behalf of him or herself, a close friend, family member or another member of the recipient's staff; or (3) acting on behalf of a religious, community, or charitable group; or (4) participating in a voluntary pro bono or legal referral program affiliated with or sponsored by a bar association, other legal organization or religious, community or charitable group.

requirement for approval, should be applied to Executive Directors, and that they should obtain approval of their outside practice of law.

- Allowing Executive Directors to conduct outside law practices may distract from the day-to-day responsibilities of operating the program. An Executive Director of a legal services program ordinarily should be a full-time commitment.
- Limiting the ability of Executive Directors to conduct outside law practices avoids potential conflicts of interest with program clients. In addition, as the head of a program, the Executive Director's actions reflect on the program itself.
- Allowing Executive Directors to conduct outside law practices could give an appearance of impropriety that undermines public confidence in the integrity of the program, especially in instances where an Executive Director is using program staff and resources in support of the outside law practice. Staff may feel obligated to participate, even though the activity has not received outside approval.
- Limiting an Executive Director's ability to conduct an outside law practice sets a positive example for the other full-time attorneys at the program, and helps to ensure that staff time, resources and efforts are being maximized to accomplish the work of the program. Executive Directors set the "tone at the top," and their actions may unwittingly create a culture that potentially encourages outside law practice, including unauthorized practice.

OIG recently conducted inquiries regarding the outside practice of law by Executive Directors at three programs. Practices varied widely, including the Board of Directors being completely uninformed about the Executive Director's outside practice of law, or the Board not being asked permission but occasionally being advised about outside practice. In none of the three programs, however, did the Executive Director seek permission from the Board, or any other designated person. Additionally, we observed that Executive Directors used program resources, including staff, for their outside cases, and used their official title and program name and address in letters and pleadings, leaving the impression they were conducting program business when they instead were conducting outside practice.

The OIG is bringing this matter to your attention with a recommendation that LSC advise Executive Directors who wish to conduct an outside law practice that they are considered full time attorneys under Part 1604, and that they must obtain permission from their Board of Directors or the Board's designee before conducting an outside legal practice. In addition, LSC should provide guidance to programs about using resources, staff, and the program's identity when any program attorney, including an Executive Director, is conducting an outside legal practice.

Should you have any questions on this management information memorandum, please contact me or Thomas Coogan, Assistant Inspector General for Investigations, at x1651.

cc: Karen Sarjeant
Vice President for Programs and Compliance




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MEMORANDUM

TO: James Sandman
President

FROM: Jeffrey Schanz
Inspector General 

DATE: March 29, 2013

SUBJECT: Management Information Memorandum - Bank Deposit
Insurance Coverage

As part of the Inspector General's responsibility to keep management informed, this memorandum highlights recent changes made to Federal Deposit Insurance Corporation (FDIC) coverage (effective January 1, 2013), and observations that grantee funds could potentially be at risk.¹ LSC should consider informing LSC grantees to heighten awareness in this area so that appropriate precautionary actions are taken.²

Expiration of Temporary Full FDIC Insurance Coverage

On January 1, 2013, non-interest bearing transaction accounts such as checking accounts no longer receive unlimited coverage from the FDIC. Accordingly, non-interest and interest bearing transaction accounts now fall under the same combined standard deposit insurance maximum amount of \$250,000 per depositor, per insured bank, for each account ownership category.³

¹ In recent years, bank failures within the United States have increased (<http://www.fdic.gov/bank/historical/bank/>) and as a result, depositor organizations can and do lose uninsured money.

² Section 2-2.2 *Cash and Investments*, of the LSC Accounting Guide addresses how LSC funds should be maintained.

³ *Expiration of Temporary Unlimited Coverage for Noninterest-Bearing Transaction Accounts*, <http://www.fdic.gov/deposit/deposits/unlimited/expiration.htm> .

Observations

The OIG notes the following observations related to the matter:

- OCE Application and Renewal Reviews note that some grant recipients' accounts in FY 2011 had cash deposits in excess of the maximum FDIC limit;⁴
- OIG site visits from 2011 through early 2013 observed that FDIC limits were exceeded in several grantees' bank accounts.⁵

As reported at the last meeting of the Finance Committee, LSC has conducted its own due diligence ensuring maximum bank deposit insurance coverage by creating a bank sweep arrangement of LSC funds.

Based on this information, the OIG recommends that LSC promote grantee awareness in this area. Some LSC grant recipients may benefit from consulting with their banks and financial advisors and taking precautionary actions where appropriate.

Should you have any questions on this management information memorandum, please contact me or David Maddox, Assistant Inspector General for Management and Evaluation at x-1653.

Additional Resources

The FDIC website has information on the topic of "Are My Deposits Insured?" and several helpful links:

- *Deposit Insurance Summary*, <http://www.fdic.gov/deposit/deposits/dis/>;
- *Ownership Categories - Corporation/Partnership/Unincorporated Association Accounts*, <http://www.fdic.gov/deposit/deposits/insured/ownership7.html>.

⁴ Legal Aid Society of Cleveland, Legal Aid Foundation of Chicago, and Legal Services of South Central Michigan.

⁵ Interest bearing excess balances were noted at Florida Rural Legal Services, Legal Aid of Arkansas and Legal Services of South Central Michigan.




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MEMORANDUM

TO: James J. Sandman, President

FROM: Jeffrey E. Schanz, Inspector General 

CC: Lynn. A Jennings, Vice President for Grants Management

DATE: March 27, 2014

SUBJECT: Management Information Memorandum (MIM) - Grantees' Personnel Compensation Data Collection

Recommendation:

In an effort to foster improvement in fiscal oversight and the effective and efficient use of grant funds, the OIG recommends that LSC Management collect and analyze more comprehensive compensation data¹ for key employees.² Traditionally, personnel salary and benefits are the largest expense category of LSC funds by grantees. Detailed compensation information would help ensure that the use of funds is "reasonable and necessary for the performance of the grant".³ It would also provide LSC the degree of transparency and accuracy required for proactive oversight of grants⁴ and ensure compliance with LSC 45 CFR §1630.3(a)(2) – Cost Standards and Procedures.

LSC should consider collecting actual compensation for key employees rather than annual budgeted salary only. The following items should be considered for collection:

- Bonuses and Incentives (Internal Revenue Service - Form 990, 17 CFR §229.402)

¹ While LSC's form E-1 captures individual salaries, Form D-1 only collects aggregated employee benefits data. Collecting benefits and other forms of compensation at an individual level would improve oversight in this area.

² Some of which is already reported by LSC Grantees on their Internal Revenue Service (IRS), Form 990, Part VII, Section A. *Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees*, along with Schedule J, Part II (For employees receiving over 150,000 in compensation).

³ As referenced in LSC Program Letter 14-1, OMB Circular No. A-122, Appendix B provides guidance on allowable and reasonable compensation systems.

⁴ For example, although not applicable to LSC grantees due to dollar thresholds, the Federal Funding Accountability and Transparency Act, 2 CFR §170.320, requires federal grantee recipients to report total compensation for their five most highly compensated executives.

- Retirement and Other Deferred Compensation (Form 990)
- Nontaxable Benefits (Form 990)
- Allowances (OMB Circular No. A-122)
- Cost of Living Differentials (OMB Circular No. A-122)
- Severance Pay
- Other Forms of Compensation

Discussion:

This recommendation is based on recent OIG findings, including a 2012 Audit Report on *Selected Internal Controls, Inland Counties Legal Services, Inc.*⁵ and two investigations. The 2012 OIG Audit report informed LSC Management that in the OIG's opinion, "\$1,384,670 charged to LSC funds for the payment of the stipends and other benefits" were "unallowable costs within the meaning of 45 CFR §1630.2."⁶ The OIG referred the questioned costs to LSC Management for action.⁷ A 2013 OIG investigation (Case Number 13-040), also referred to Management, identified significant differences in an executive director's total compensation compared to the amount in the LSC Grant Reports (GREPS). Another investigation highlighted benefits fraud at another LSC grantee.⁸

The OIG compared budgeted salaries reported on GREPS against total compensation reported on Form 990s filed by LSC grant recipients. The chart on the next page presents the top ten highest executive directors' compensation variances identified out of a 35 grantee sample.⁹ The analysis revealed two instances in which compensation differentials as reported in Form 990 were \$146,430 and \$101,999 above the budgeted salary reported to LSC on Form E-1 (Actual Staffing). The remaining eight highest differences ranged from approximately \$22,000 to \$40,000. The OIG also noted some instances where grantees did not report compensation information accurately as required by the IRS on Form 990.

⁵ <http://www.oig.lsc.gov/reports/1206/805230ICLS.pdf>.

⁶ The OIG noted a disproportionate amount of bonuses and incentives charged to LSC funds. LSC should consider receiving cost allocation information from all grantees to ensure reasonableness.

⁷ "[T]he Office of Compliance and Enforcement recommended that a Notice of Questioned Costs be issued in the amount of \$252,069.33, for costs incurred by ICLS during the calendar years 2009 and 2010." *Status Update on Referral of OIG Audit Report No. AU12-06 Report on Selected Internal Controls- Inland Counties Legal Services, Inc. RNO 80523*, September 30, 2013.

⁸ Investigation MIM released to Management on August 26, 2013.

⁹ While we reviewed executive directors' compensation, significant variances exist for other highly paid personnel. Six other employees at one grantee reportedly received an average of \$119,293 above their 2011 budgeted salary.

2012 Executive Director Compensation Data¹⁰ Comparison			
#	<u>Total Compensation</u> <u>(Form 990)</u>	<u>Salary (LSC Form E-1)</u>	<u>Differential of Form</u> <u>990 amount higher</u> <u>than reported salary</u>
1	\$329,130	\$182,700	\$146,430
2	\$225,108	\$123,109	\$101,999
3	\$203,983	\$164,668	\$39,315
4	\$221,993	\$187,353	\$34,640
5	\$172,169	\$140,000	\$32,169
6	\$152,033	\$124,000	\$28,033
7	\$168,968	\$141,100	\$27,868
8	\$185,136	\$157,760	\$27,376
9	\$130,645	\$108,500	\$22,145
10	\$121,969	\$99,990	\$21,979

Based on this information, the OIG recommends that LSC improve its data collection in the area of compensation. Should you have any questions on this MIM, please contact me or David Maddox, Assistant Inspector General for Management and Evaluation at x-1653.

¹⁰ This analysis was limited by the lack of LSC individualized data collection of benefits and other forms of compensation.



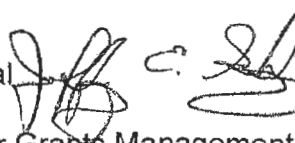
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MEMORANDUM

TO: James J. Sandman, President

FROM: Jeffrey E. Schanz, Inspector General 

CC: Lynn A. Jennings, Vice President for Grants Management

DATE: February 23, 2015

SUBJECT: Management Information Memorandum (MIM) – 15-01
Prompt Reporting of Potential Fraud Indicators to the OIG

The Legal Services Corporation (LSC) Code of Ethics and Conduct requires LSC employees to promptly report unlawful or unethical activity to the Office of Inspector General (OIG). Further, Section 2.4 of the LSC Employee Handbook requires LSC employees to inform the OIG of the possible existence of a violation of law, rules, regulations, mismanagement, gross waste of funds, abuse of funds, and substantial dangers to the public health and safety. The reporting of such activities to the OIG assists in furthering the OIG's statutory mandate under the Inspector General Act to promote economy, efficiency, and effectiveness, and to prevent and detect fraud, waste, and abuse in activities administered or financed by LSC.

Within your office, the Office of Compliance and Enforcement (OCE) and the Office of Program Performance (OPP) regularly conduct on-site visits to recipient programs. OCE and OPP regularly communicate with recipient employees about potential issues and concerns at these programs. There are times when compliance and program quality issues uncovered by OCE and OPP contain indicators of potential fraud, waste, abuse, and mismanagement.

The revised Code of Ethics and Conduct was just published underscoring the critical role OCE and OPP employees play in receiving information related to indicators of fraud. The OIG reminds you to emphasize the need for OCE and OPP employees to immediately report the actual or suspected activity to the OIG.

The Code of Ethics and Conduct and the LSC Employee Handbook provide a broad overview of issues that should be reported to the OIG. Our investigative work has also disclosed the following grant fraud patterns; however, this list is not all inclusive:

Mismanagement Indicators

- Conflicts of interest and nepotism between employees, board members, contractors, consultants, and vendors (related party transactions).
- Abusive or dominant fiscal managers that refuse to delegate work or take time off.
- Refusal or reluctance of employees to provide fiscal documents.
- Employees who charge items or make purchases or travel claims to the program that appear to be for personal benefit.
- Mismanagement, including; inappropriate relationships, misuse of program resources, outside employment, or lack of supervision.
- Reports or complaints from clients and the courts indicating program employees who are consistently late, leaving early, or absent.
- Reports of the destruction of documents in violation of the program's retention and destruction policy or during an ongoing investigation.

Questionable Practices

- Lack of Board approval or minutes to support changes in compensation including bonuses, deferred compensation, and executive pay.
- Reimbursements or benefits that only apply to a select employee or group of employees for items such as cellular phones, home internet, private vehicle, or relocation expenses.
- False or misleading information in grantee applications, progress reports, or financial status reports.
- Vague contracts that require minimal performance, documentation, or timeline.

Accounting Indicators (Internal Controls)

- Irregular fiscal issues dealing with banking including; bank reconciliations, timeliness of cash deposits, and postings to client trust funds.
- Payments made without adequate approval or approval by unauthorized persons.
- Program records and documents that are missing or appear to be altered including: receipts, invoices, and expense forms.

- Salary advances and employee loans inconsistent with program policy.
- Lack of procedures to request and approve overtime or compensatory time.
- Individuals or a select group of individuals receiving excessive or unsupported overtime or compensatory time.
- Lack of competition in the selections of vendors, contractors, or persons being paid with program funds.
- Fiscal weaknesses identified during the grant application process or during the grant cycle that require remediation through special grant conditions or other means.
- Excessive use of grantee funds to pay client litigation expenses in conjunction with weak controls and procedures in handling client funds (cash received from clients).

Executive Director Indicators

- Inadequate approval, oversight, or supporting documentation to validate Executive Director's travel, timekeeping, credit card, and any other reimbursements.
- Inadequate approval, oversight, or supporting documentation to validate Executive Director's outside employment; outside affiliations; and past or present business relationships which may represent a conflict of interest.
- Abrupt departure, buy-out, or forced retirement of the Executive Director or the fiscal officer.
- Executive Directors acting without Board approval when Board permission is required.

In addition, we recommend reviewing opportunities to coordinate training for LSC management and employees to increase awareness of potential fraud indicators at recipient programs; why the indicators may signal a potential theft, waste, or misuse of funds; and how to report such indicators to the OIG. We would also like to work with LSC management in establishing protocols and guidelines for the reporting of these issues to the OIG. We believe this type of communication can lead to the prevention or early detection of fraud, waste, and misuse of LSC funds.

We are available at your earliest convenience to discuss the issues delineated above.





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MEMORANDUM

TO: James Sandman
President

FROM: Jeffrey Schanz
Inspector General  

DATE: April 8, 2016

SUBJECT: Grantee Contracting Policies and Procedures

Based upon collective reviews by the Offices of Audit and Investigation in the area of grantee contracting policies and procedures, the Office of Inspector General (OIG) found that many grantees were deficient in applying Legal Services Corporation (LSC) guidance in this area. We determined that many grantees did not consistently adopt or apply LSC guidance found in the LSC Accounting Guide or Property Acquisition and Management Manual related to contracting.

The OIG believes that grantee contracting is a high-risk area for potential fraud, waste and abuse. Specifically, the OIG found that many grantees did not regularly have policy or apply LSC guidance in the areas of pre-established dollar limit threshold limits, requirements for competitive bidding, requirements for sole sourcing, and documenting the award decision. OIG reviews found that the primary types of grantee contracts at risk included professional services, consultants and use of sole-source justifications. The OIG believes LSC should provide additional guidance to grantees in this area.

We note that LSC issued an update to the LSC Administrative Manual, Chapter 1, Purchasing and Contracting Protocols. These updated protocols may serve as a useful reference for grantees as they develop and enhance their contracting policies and procedures.

The findings and recommendations from our reviews of grantee contracting policies and procedures are summarized in the attached report.

Please let me know if you have any questions.

Attachment






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MEMORANDUM

TO: James J. Sandman, President

FROM: Jeffrey E. Schanz, Inspector General   

CC: Lynn A. Jennings, Vice President for Grants Management

DATE: April 8, 2016

SUBJECT: Management Information Memorandum (MIM) – 16-01
Grantee Contracting Policies and Procedures

Introduction:

The purpose of this report is to inform LSC Management of the deficiencies in contracting policies and protocols, noted in investigations and audits, and to make recommendations to LSC Management to enhance the guidance promulgated to recipients to help ensure that contracting policies and procedures in the field are sound and comply with LSC requirements.

During grantee reviews conducted by the OIG's Office of Investigation, we identified deficiencies in grantees' written policies and procedures for purchases, specifically for implementing contracts related to obtaining professional services and consultants and the application of sole source justifications to procure goods and services. Although LSC provides general guidance on purchasing to grant recipients in both the LSC Accounting Guide and the Property Acquisition and Management Manual (PAMM), our reviews and investigations found many grantees were deficient in adopting and/or applying this LSC guidance. The *Fundamental Criteria* of the LSC Accounting Guide for recipients identifies contracting as a high-risk area for potential abuse. It states "weak contracting practices can result in waste of scarce funds and subject the grantee to questioned cost proceedings or lead to fraud or waste."

Correspondingly, over a period of two years, the OIG's Audit Division observed similar trends at grantees relating to deficiencies with contracting policies and procedures. In

its' Compendium Report¹, the Audit Division summarized the findings and recommendations issued in internal control review audit reports from October 1, 2013 to September 30, 2015. Of the 166 recommendations issued during the period, approximately 22% were related to grantee contracting policies and practices.

Collectively, the OIG Investigative and Audit findings suggest that further LSC guidance is required to improve grantee contracting policies and procedures.

Background:

Regulations and guidance pertaining to procurement with LSC funds are located in Title 45, Code of Federal Regulations (45 C.F.R.), Part 1630 – Cost Standards and Procedures, the *Fundamental Criteria* of the LSC Accounting Guide and the LSC PAMM, published on September 13, 2001, in the Federal Register.

45 C.F.R. §1630.3, Standards governing allowability of costs under Corporation grants or contracts provides general criteria regarding expenditures of LSC funds. Expenditures are allowable under a recipient's grant only if they are:

- incurred in the performance of the grant;
- reasonable and necessary for the performance of the grant; and
- allocable to the grant.

45 C.F.R., §1630.5, Costs requiring Corporation prior approval stipulates that the following purchases must be pre-approved by LSC management:

- purchases and leases of equipment, furniture, or other personal, non-expendable property, if the current price of any individual item of property exceeds \$10,000; and
- capital expenditures exceeding \$10,000 to improve real property.

The *Fundamental Criteria* of the LSC Accounting Guide, Section 3-5.16, includes criteria for contracting. It includes guidance regarding different types of contracts, documenting contract actions, competition requirements and approvals. It instructs grantees to establish their own contracting policies and procedures for various types of contracts, dollar thresholds and competition requirements. It requires that the type and dollar value of contracts that require competition should be included in the grantee's policies and the required approval level should be established for each contract type

¹ Compendium of Internal Control Audit Findings & Recommendations from Reports Issued October 1, 2013 through September 30, 2015, Report 16-02, December 3, 2015
https://www.oig.lsc.gov/images/Final_Compendium_Report_-_ISSUED.pdf

and dollar threshold. Under the guidance, documents to support competition should be retained and kept with the contract files.

The *Fundamental Criteria* also requires a contract's statement of work to be sufficiently detailed so that deliverables can be identified and monitored to ensure compliance with contractual requirements. It advises that additional oversight should be given to consulting, personal services and sole-source contracts. Further, the *Fundamental Criteria* states that the process used for each contract action must be fully documented and the documentation maintained in a central file. Any deviation from the approved contracting process should be fully documented, approved and maintained in contract files.

The LSC Accounting Guide also recommends that the grantee have a conflict of interest policy for management and the Board of Directors.

The PAMM was developed based on "three existing federal sources of property acquisition and management policy: The Federal Acquisition Regulations (FAR); the Federal Property Management Regulations; and Office of Management and Budget (OMB) Circular A-110." The PAMM provides instructions on the purchase of real property, personal property and capital improvements when using \$10,000 or more of LSC funds. For those types of procurements, the grantee is required to obtain three competitive quotes. It also allows the grantee to use quotes listed on a supplier's online or printed catalog, the supplier's website or any other publicly available material. The PAMM indicates a recipient should determine a source selection process but provides very limited guidance as to how. The PAMM also generally indicates that recipients should document their sole-source acquisition. The documentation for purchases above \$10,000.00 must be provided to LSC for approval prior to contract award.

Discussion of Findings

During reviews of grantees' written policies and procedures, we found that recipients' policies consistently lacked specific detail and instruction for handling purchases related to: professional services, consultants, sole-source contracts, maintenance agreements, accounting services assistance, office renovations, and computer hardware/software. Other areas of concern relate to obtaining services for cooperative agreements, training contracts, employment contracts, contract services to clients, and legal counsel assistance. These types of contracts often require additional analysis and progressive levels of oversight and procurement authorities; the detail of which was not outlined specifically in grantee policies and procedures.

Several policy deficiencies the OIG routinely observed on these types of procurements are:

- no pre-established dollar limit thresholds;
- no requirements for competitive bidding;
- no requirements for sole sourcing; and
- limited grantee documentation.

The *Fundamental Criteria* discusses key elements associated with contracting, including oversight, documentation requirements, the type and dollar value of contracts that require competition, and dollar thresholds associated with approval authorities, but it does not provide specific instruction to guide implementation at the grantee level.

Implementation of LSC Criteria:

The OIG's Office of Investigation observed that LSC requirements for contracting as written in the PAMM and LSC Accounting Guide provide a broad framework for policy implementation at the grantee level. The LSC Accounting Guide instructs grantees to establish their own contracting policies and procedures for various types of contracts, dollar thresholds and competition requirements.

However, reviews of recipient policies did not always reflect the detailed level of instruction or required implementation of policy to meet LSC policy requirements in the area of acquiring professional services, consultants, and sole-source contracts.

It is noted that the more significant investigations completed by the OIG's Office of Investigation revolve around weak contracting policies which contributed to the opportunity to commit fraud. The LSC OIG has identified acquisition management as a high-risk area for both LSC and its grant recipients. The LSC OIG believes there is

more than a casual link between weak contracting policies and practices and the opportunity to expose grant recipients to the risk of fraud, waste and abuse.

Investigative Reviews of Grantee Contracting Practices:

Below is a sample of contract reviews at multiple grantees and subgrantee locations during the last year:

- 1) Issue: An Executive Director (ED) initially selected a contractor to remodel their building at a cost of \$132,000. The grantee's policy, under "Capital Expenditures," requires bids be received for purchases over \$5,000 and be approved by the ED.

Review of the contract file: Three bids were received for this procurement. The \$132,000 bid was \$20,000 higher than the next offer. No Request for Proposals (RFP) was initiated nor was there any independent evaluation team organized to review the three proposals. Preliminarily, the ED made a unilateral decision to select the contractor primarily based upon a "promised" future in-kind contribution of \$250,000 to his program for engineering services, the selected contractor was personally known to him and the contractor had contributed to his program in previous years. A public record search on the selected contractor revealed several tax liens against the company and a criminal fraud charge against the owner. After discussions between the ED and the OIG, the ED decided to re-evaluate his decision and to set up an independent process to procure these services.

Compliance with LSC Guidance: The grantee's policy on contracting is deficient in adopting and/or applying LSC guidance.

The grantee's policy, under "Capital Expenditures," indicates written quotes in excess of \$5,000 must be obtained. Their policy indicates "the selection of the vendor will depend upon quality and service as well as price." Based upon a review of the contract file, the decision to initially select a vendor was based on previously received donations and a promised "in kind" contribution rather than quality, price and validated references. The grantee's policy, under this section, provided no instruction on how to evaluate and document the award decision.

The grantee's policy, under "Contracts – Professional Services" indicates that contracts must be approved by the ED, include a description of work to be performed, the dates of engagement and the amount to be paid. Their policy under this section does not describe dollar limit thresholds, requirements for

competitive bidding or sole sourcing for acquiring professional services, or how to evaluate or document the award decision.

- 2) Issue: A grantee selected a contractor to provide upgraded software maintenance for their computers at a cost of over \$70,000. The grantee's policy, under "Major Purchases in Excess of \$50,000," indicates three bids must be obtained for purchases over \$50,000 unless a sole source justification is applied. The grantee's Board must approve purchases over \$50,000. The grantee's policy also required the following for purchases over \$50,000: a description of the property to be acquired, a description of the acquisition process, and the selection criteria used to determine the best valued vendor or product. Their policy states "price alone shall be sufficient criteria; however other factors may be considered along with price." Their policy indicates, under appropriate circumstances, the grantee may issue a RFP to procure a specific item with a purchase price of over \$50,000.

Review of the contract file: Three bids were received but no RFP process or independent evaluation team was implemented. The grantee's IT Director was the only person who reviewed and evaluated the three bids. The IT Director selected the contractor who previously held the contract. There was a description of the property to be acquired but no detailed description of the acquisition process or selection criteria used to determine the best value² vendor or product. The ED and Chief Financial Officer (CFO) approved this contract but there was no indication in the file that their Board had approved this award decision.

Compliance with LSC Guidance: The grantee's policy on contracting is deficient in adopting and/or applying LSC guidance.

Such a wide variance in a dollar limit threshold (over \$50,000), without implementing a RFP, could place the grantee at risk to not achieving best value. The grantee's policy did not describe the elements of a RFP. Because no RFP was initiated, the ability to use price alone as a criteria for selection, and not organizing an independent evaluation team, the grantee's process for identifying best value could be questioned.

- 3) Issue: A grantee selected a contractor to remodel their office at a cost of over \$28,000. The grantee's policy, under "Purchases of Personal Property," indicates two bids must be received for purchases under \$50,000 unless a sole

² Best Value is a combination of factors such as a demonstrated history or reputation for excellence in price, performance and quality. Price is not the only determining factor.

source justification is applied. Purchases between \$1,000 and \$50,000 must be approved by the ED and CFO. The grantee's policy, under "Incurring Costs Associated with Capital Improvements," indicates capital improvements under \$50,000 should include three quotes, unless a sole source justification is applied. In addition, a memorandum should be completed to describe: the need for the procurement, the funding source, a description of the improvement, name of the contractor selected and the cost of the improvement. Under appropriate circumstances, a RFP may be implemented for capital improvements.

Review of the contract file: No other bids were received for this procurement (there was no indication that other requests for bids were advertised or received), no independent evaluation team was organized, no RFP process was implemented, nor was any sole source justification applied for this project. The ED and CFO approved this contract.

Compliance with LSC Guidance: The grantee's policy on contracting is deficient in adopting and/or applying LSC guidance.

The grantee's policy does not discuss requirements for evaluating or documenting the award decision nor does it discuss the elements of a RFP. Such a wide variance in a dollar limit threshold (\$1,000 to \$50,000), without implementing a RFP, organizing an independent evaluation team or documenting a sole source justification, could place the grantee at risk for not identifying best value.

- 4) Issue: A subgrantee selected a consultant to provide services related to fundraising strategies at a cost of \$98,000 a year and then the next year, offered the same consultant a \$48,000 a year contract to provide the same service. In another contract, the subgrantee contracted with a different consultant to provide training at a cost of approximately \$15,000. The subgrantee's policy, under "Purchases over \$5,000," indicates purchases over \$15,000 must be approved and signed by the ED and a Board member with signature authority.

Review of the contract file: No other bids were received for these procurements (there was no indication that other requests for bids were advertised or received), no independent evaluation team was organized, nor was any sole source justification applied for these projects. The ED and a Board member signed and approved these contracts.

Compliance with LSC Guidance: The subgrantee's policy on contracting is deficient in adopting and/or applying LSC guidance.

The subgrantee's policies did not discuss requirements for dollar limit thresholds, competitive bidding or sole sourcing for acquiring professional services, or how to evaluate or document the award decision. Without policy guidance on these factors, the grantee's process for identifying best value could be questioned.

- 5) Issue: A grantee selected an independent financial auditor to complete their financial statement work for \$15,000 a year. The grantee's policy, under "Purchasing - General," indicates purchases over \$1,000 require ED approval. The grantee's policy, under, "Contracts – Professional Services," requires the following: a properly executed contract must include the signature of the ED, a description of work to be performed, dates of engagement and amount to be paid.

Review of the contract file: No other bids were received for this procurement (there was no indication that other requests for bids were advertised or received), no independent evaluation panel was organized, nor was any sole source justification applied for this contract. The ED approved this contract.

Compliance with LSC Guidance: The grantee's policy on contracting is deficient in adopting and/or applying LSC guidance.

The grantee's policies did not discuss requirements for dollar limit thresholds, competitive bidding or sole sourcing for acquiring professional services, or how to evaluate or document the award decision. Without policy guidance on these factors, the grantee's process for identifying best value could be questioned.

- 6) Issue: A grantee selected a consultant to conduct survey work related to an IT project for approximately \$40,000. The grantee's policies, under "Contracts and Consulting Agreements," contains limited instruction on developing contracting and consulting agreements to include ensuring the services are needed, funding is available, the ED or designee must approve the purchase and the requirement to implement a RFP if the purchase is over \$25,000.

Review of the contract file: No other bids were received for this procurement (there was no indication that other requests for bids were advertised or received), no independent evaluation team was organized, no RFP process was initiated, nor was any sole source justification applied for this contract. The ED's designee approved this contract.

Compliance with LSC Guidance: The grantee's policy on contracting is deficient in adopting and/or applying LSC guidance.

The grantee's policies did not discuss requirements for competitive bidding or sole sourcing for acquiring professional services, or how to evaluate or document the award decision. Their policy did not describe the elements required to implement a RFP. Without policy guidance on these factors, the grantee's process for identifying best value could be questioned.

- 7) **Issue:** A grantee selected a contractor to provide janitorial services for one of their multiple offices for approximately \$50,000 a year. The cost for these services was over twice the amount compared to costs at their other office locations. The grantee's policies, under "Contracts and Consulting Agreements," contains limited instruction on contracting and consulting agreements to include ensuring funding is available, the ED or designee must approve the purchase and the requirement to implement a RFP if the purchase is over \$25,000.

Review of the contract file: No other bids were received for this procurement (there was no indication that other requests for bids were advertised or received), no independent evaluation team was organized, no RFP process was initiated, nor was any sole source justification applied for this contract. The ED's designee approved this contract.

Compliance with LSC Guidance: The grantee's policy on contracting is deficient in adopting and/or applying LSC guidance.

The grantee's policies did not discuss requirements for competitive bidding or sole sourcing for acquiring professional services, or how to evaluate or document the award decision. Their policy did not describe the elements required to implement a RFP. Without policy guidance on these factors, the grantee's process for identifying best value could be questioned.

Summary of Audits:

From October 1, 2013 to September 30, 2015, the OIG Audit Division issued 18 internal control review audit reports. As a part of each internal control review, the OIG assessed the adequacy of internal controls over contracting, contracting policies and procedures and compliance with LSC regulations and guidance. Over the course of the period, the OIG issued 37 recommendations related to contracting. The recommendations could be classified into seven different categories, summarized in the table below.

Exhibit 2: Summary of Contracting Recommendations

Issue	Number of Recommendations	Number of Audit Reports
Written Policies and Procedures	13	10
Supporting Documentation	11	9
Formal Contract	5	3
Adhere to Written Policies	3	3
Centralized Filing System	2	2
Competitive Bidding	2	2
Cross-training	1	1
Grand Total	37	

As described in the chart above, significant deficiencies exist in grantee policies, procedures and practices related to contracting as compared to the requirements of LSC's guidance. Nearly all of the audit reports identify deficiencies in this area.

Conclusion:

Although LSC provides general guidance on purchasing to grant recipients in both the LSC Accounting Guide and the PAMM, OIG audits and investigations found many grantees were deficient in applying this LSC guidance. Specifically, we found that grantees did not consistently adopt or apply this LSC guidance as they developed policies for purchases related to professional services, consultants or use of sole source justification to procure goods and services. This gap in applying LSC guidance can subject grantees to allegations of waste and fraud or questioned cost proceedings as they expend appropriated funds.

Recommendation:

To ensure LSC grantees obtain best value in contracting and reduce the risk of fraud, waste and abuse, the OIG encourages LSC management to issue supplementary guidance, including best practices, to which recipients of LSC funding may refer when drafting and implementing policies and procedures for contracting in the areas of professional services, consultants, and the use of sole source justifications.

The OIG notes that, on September 28, 2015, LSC Management issued an update to the LSC Administrative Manual, Chapter 1, Purchasing and Contracting Protocols. The updated protocols may serve as a useful reference for grantees as they develop and enhance contracting policies and procedures, with modifications scaled to suit business needs.

The OIG also notes that LSC recently announced its commencement of a rule making process to consider modifications to Part 1630 and the PAMM. Although the information provided in this Management Information Memorandum is not all inclusive on this subject, the OIG hopes this report assists LSC in those efforts.

APPENDIX

The OIG offers the following examples of best practices for contracting. This is not a comprehensive summary, but addresses several of the areas where the OIG observed deficiencies in the written policies and procedures implemented by recipients of LSC funding.

Contracting Policies and Procedures

Procurement planning helps maximize competition and obtain best value for the buyer. The OIG recommends LSC grantees include the following as they develop contracting policies and procedures:

1. staff roles and responsibilities should be segregated by function to ensure proper internal controls during the procurement process;
2. purchasing limits and approval authority including needed approvals from LSC, funding approval from the Chief Financial Officer of the grantee, the Executive Director and/or the grantee's board of directors;
3. pre-solicitation, solicitation, and post award administration activities;
4. competition procedures for the various types of procurement thresholds;
5. source selection procedures, including sole sourcing and any exception to the competition process;
6. documentation requirements; and
7. contract management procedures, including contract negotiations, award and any approved extensions, modifications and change proposals, terminations for default or convenience and close out.

The following areas may require detailed guidance to ensure that contracting policies and procedures adhere to LSC requirements.

Documentation

As applicable, the OIG recommends that each procurement file include, at a minimum, the purchasing authority of the requester, LSC approval for the purchases above the \$10,000 threshold as warranted, a description of the acquisition need, market research materials, advertising materials such as RFPs or requests for quotes (RFQs), all bids received under the RFP or RFQ, source selection plan and materials including the criteria and basis for selection of a vendor, documentation of any exception to the competition process, fully executed contract and invoices and contract close out form, including archives on the contractor performance and lessons learned.

Solicitation:

- a. Request for Proposals: Information on how to solicit proposals, such as how to initiate and draft a RFP, can be included in acquisition policies and procedures manuals. At a minimum, RFPs include a statement of work, detailed requirements, proposal instructions and evaluation criteria, including technical proposal, price proposal and references. A well written RFP is the key to meet an organization's needs at the best value possible.
- b. Advertising: Vendors can be contacted to gauge interest in a particular procurement and the opportunity can be posted on the buyer's website or using RFP posting websites.

Source Selection:

- a. Detailed³ source selection guidelines can be included in acquisition policies and procedures manuals, particularly as they relate to the evaluation of higher threshold contracts.

They include:

- i. The creation of a source selection plan and the definition of evaluation criteria: Evaluation criteria typically include technical approach, staff experience and level of education, price and vendors past performance. Those elements can be rated using various methods, such as numerical or color systems. Those methods are documented in the source selection plans and all documents pertaining to the source selection process included in the procurement file.
- ii. The creation of an evaluation panel for those procurements that require a RFP: The evaluation panels include, at a minimum, subject matter experts in the particular service or product that's being procured. In the interest of independence, evaluation panelists should not interact with vendors at the time of evaluation. Evaluation panelists should review proposals independently and as a team to make a consensus decision as to the best value vendor or product.

³ The guidance provided by the PAMM is very generic and the OIG encourages the adoption of a more formal and detailed source selection process to ensure fairness in the evaluation of proposals." The selection of a source shall be on the basis of criteria established and documented by the recipient. Such criteria may include price alone or price in combination with other factors." PAMM, Section 3.b.

- iii. The use of trade-off techniques (balance of price, technical and past performance criteria) to select the best value vendor or product.

Evaluation Team

In order for procurements to be successful and efficient, the OIG encourages a clear description and documentation of each employee's role in the acquisition process. At a minimum, the roles and levels of authority based on the type of procurement should be documented in the purchasing/contracting policies and procedures manual. Evaluation teams should include subject matter expert(s) and other professionals to assess the bids. Evaluation panelists should not interact with vendors at the time of evaluation. Evaluation members should review proposals independently and then come together as a team to provide a consensus decision to determine best value vendor or product. Evaluation criteria should be developed, scored and retained in the contract file to document the award decision.

Conflicts of Interest

Grantee approving officials and evaluation team members should be free of any conflicts of interest related to the procurement. A conflict of interest occurs when an official, employee, immediate family members or close associates intends to employ or has a financial interest in any of the competing firms. If a conflict of interest exists with a potential vendor, the relationship should be disclosed and the individual should be recused from the procurement, if appropriate. Grantee employees involved in purchasing and procurement decisions should regularly review their ethics/conflicts of interest policy to ensure compliance. Vendors should compete and be evaluated fairly with no prejudices on the outcome of a competition.

Sole Source Exceptions

LSC grantees should take steps to clearly define the scope of sole source exceptions to competition in their acquisition policies and procedures manual⁴. Sole-sourcing should be used only when competition cannot be achieved and in situations where only one vendor is able to meet the need, or in case of true emergency, or time constraint. It should be made clear that sole sourcing cannot remedy a lack of procurement planning, be used as a mean to expedite procurement processes or to create an opportunity for a vendor with which LSC grantees had a prior relationship.

⁴ Currently the *Property Acquisition and Management Manual* (PAMM) indicates, "When an acquisition is made on a sole source basis, the recipient shall maintain written documentation of the reason(s) for not obtaining competitive quotes." The OIG believes LSC Grantees acquisition policies and procedures manuals should be very specific about the conditions for sole source selections.

Procurement Thresholds

Dollar-limit threshold levels or tiered policies for various types of purchases or contract type should be defined by the grantee. The characteristics of each dollar threshold level for purchasing should be clearly defined and quantified in the policy. Similarly, approval authority thresholds for types of various purchases or contracts should be established.

The OIG offers the following examples to illustrate the level of detail needed to define dollar-limit procurement thresholds. Please note: Other possible dollar-limit threshold levels could be established based upon the number and type of purchases for goods and services a particular grantee experiences on an annual basis.

- For purchases less than \$500, a supervisor other than the Executive Director, should be authorized to approve the purchase. Documentation supporting the purchase should be retained in a central file, but competitive bidding is not required.
- For purchases between \$501 and \$3,000, the Executive Director, or his/her designee, should be required to approve the purchase. Documentation supporting the purchase should be retained in a central file, but competitive bidding is not required.
- For purchases between \$3,001 and \$10,000, at least three competitive bids should be solicited. The written responses should be evaluated and the associated documents retained in a central file. The decision to award must also be documented in the central file. The Executive Director should be required to approve the purchase.
- For purchases over \$10,000, a Request for Proposals should be issued. A competitive bidding process should be utilized. A solicitation for bids should be written in a way that does not restrict competition.
- Final Award decisions should be made to the bidder whose bid or offer is responsive to the solicitation, and is most advantageous to the grantee. Criteria such as price, quality, past performance, and willingness to accept grantees' terms should be used to evaluate bids. The Executive Director should approve the award decision. Policy should be developed to evaluate whether the Board for the grantee should review decisions made on purchases over \$10,000.

Recurring Purchases

Recurring purchases or contracts that have an aggregate value over a fiscal year that exceeds established competition thresholds, for example, purchases of \$3,000 and over, should be subject to a competitive bidding process. Recurring purchases or contracts may be for goods or services and are made on a recurring basis, such as

monthly. Examples include janitorial services, landscaping or lawn care, and maintenance services. If the purchases are routine and the aggregate value, on a fiscal year basis, exceeds established thresholds, the grantee should follow a competitive bidding process and enter into a formal contract with the provider of the goods or services.

Automatic Renewal

Automatic renewals of contracts should be discouraged in order to ensure grantees are receiving best value for services required. Grantees should annually review contracts to determine if they should be re-competed. From a best practice perspective, contracts should be re-competed every three years.