

## Legal Services Corporation

## § 1627.3

H-2A agricultural workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(b) Nonimmigrant forestry workers admitted to, or permitted to remain in, the United States under the provisions of section 101(a)(15)(h)(ii)(b) of the INA (8 U.S.C. 1101(a)(15)(h)(ii)(b)), commonly called H-2B forestry workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(c) The following matters which arise under the provisions of the worker's specific employment contract may be the subject of legal assistance by an LSC-funded program:

- (1) Wages;
- (2) Housing;
- (3) Transportation; and

(4) Other employment rights as provided in the worker's specific contract under which the nonimmigrant worker was admitted.

### § 1626.12 Recipient policies, procedures, and recordkeeping.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

[79 FR 21871, Apr. 18, 2014]

## PART 1627—SUBGRANTS

Sec.

1627.1 Purpose.

1627.2 Definitions.

1627.3 Characteristics of subgrants.

1627.4 Requirements for all subgrants.

1627.5 Applicability of restrictions, recordkeeping, and recipient priorities; private attorney involvement subgrants.

1627.6 Transfers to other recipients.

1627.7 Recipient policies, procedures and recordkeeping.

AUTHORITY: 42 U.S.C. 2996g(e).

SOURCE: 82 FR 10283, Feb. 10, 2017, unless otherwise noted.

### § 1627.1 Purpose.

The purpose of this part is to establish the requirements for subgrants of LSC funds from recipients to third parties to assist in the recipient's provi-

sion of legal assistance to eligible clients.

### § 1627.2 Definitions.

(a) *Private attorney* has the meaning given that term in 45 CFR 1614.3(i).

(b) *Procurement contract* means an agreement between a recipient and a third party under which the recipient purchases property or services that does not qualify as a subgrant as defined in paragraph (e)(1) of this section.

(c) *Property* means real estate or personal property.

(d) *Recipient* as used in this part means any recipient as defined in section 1002(6) of the Act and any grantee or contractor receiving funds from LSC under section 1006(a)(1)(B) of the Act.

(e) *Subgrant*. (1) Subgrant means an award of LSC funds or property or services purchased in whole or in part with LSC funds from a recipient to a subrecipient for the subrecipient to carry out part of the recipient's legal assistance activities. A subgrant has the characteristics set forth in § 1627.3(b).

(2) *Subgrant* includes fee-for-service arrangements, such as those provided by a private law firm or attorney representing a recipient's clients on a contract or judicare basis, only when the cost of such arrangements exceed \$60,000.

(f) *Subrecipient* means any entity receiving a subgrant. A single entity may be a subrecipient with respect to some activities it conducts for a recipient while not being a subrecipient with respect to other activities it conducts for a recipient.

### § 1627.3 Characteristics of subgrants.

(a) In determining whether an agreement between a recipient and another entity should be considered a subgrant or a procurement contract, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed in paragraph (b) of this section may not be present in all cases, and the recipient must use judgment in classifying each agreement as a subgrant or a procurement contract. The recipient must make case-by-case

#### § 1627.4

#### 45 CFR Ch. XVI (10–1–23 Edition)

determinations whether each agreement that it makes with another entity constitutes a subgrant or a procurement contract.

(b) Characteristics that support the classification of the agreement as a subgrant include when the other entity:

(1) Determines who is eligible to receive legal assistance under the recipient's LSC grant;

(2) Has its performance measured in relation to whether objectives of the LSC grant were met;

(3) Has responsibility for programmatic decision-making regarding the delivery of legal assistance under the recipient's LSC grant;

(4) Is responsible for adherence to applicable LSC program requirements specified in the LSC grant award; and

(5) In accordance with its agreement, uses the LSC funds or property or services acquired in whole or in part with LSC funds, to carry out a program for a public purpose specified in LSC's governing statutes and regulations, as opposed to providing goods or services for the benefit of the recipient.

#### § 1627.4 Requirements for all subgrants.

(a) *Threshold.* (1) A recipient must obtain LSC's written approval prior to making a subgrant when the cost of the subgrant is \$20,000 of LSC funds or greater.

(2) *Valuation of in-kind subgrants.* (i) If either the actual cost to the recipient of the subgranted property or service or the fair market value of the subgranted property or service exceeds \$20,000 of LSC funds, the recipient must seek written approval from LSC prior to making a subgrant.

(ii) The valuation of the subgrant, either by fair market value or actual cost to the recipient of property or services, must be documented and to the extent feasible supported by the same methods used internally by the recipient.

(b) *Corporation approval of subgrants.* Recipients must submit all applications for subgrants exceeding the \$20,000 threshold to LSC in writing for prior written approval. LSC will publish notice of the requirements concerning the format and contents of the

application annually in the FEDERAL REGISTER and on LSC's Web site.

(1) *Basic Field Grants.* (i) Recipients should submit applications for subgrants of Basic Field Grant funds along with the recipient's proposal for funding, including applications for renewal of funding.

(ii) LSC will notify a recipient of its decision to approve, disapprove, or suggest modifications to an application for subgrant approval prior to, or at the same time as LSC provides notice of its decision with respect to the applicant's proposal for Basic Field Grant funding.

(2) *Special grants.* (i) Recipients of special grants (*e.g.*, Technology Initiative Grants, Pro Bono Innovation Fund grants, emergency relief grants), should submit their subgrant applications following notification of approval of special grant funds.

(ii) A subgrant application must be submitted at least 45 days in advance of its proposed effective date. Within 45 days of the date of receipt, LSC will notify the recipient in writing of its decision to approve, disapprove, or suggest modifications to the subgrant; or, if LSC has not made a decision, the date by which LSC expects to make a decision. A subgrant that is disapproved or to which LSC has suggested modifications may be resubmitted for approval.

(3) *Mid-year subgrant requests.* A recipient may apply for prior approval of a subgrant outside of the periods prescribed in paragraphs (a)(1) and (2) of this section as needed. LSC will follow the time periods prescribed in paragraph (a)(2)(ii) of this section to consider and notify a recipient of its decision to approve, disapprove, or suggest modifications to the subgrant.

(4) *Failure to comply.* Any subgrant not approved according to paragraphs (a)(1) through (3) of this section will be subject to disallowance and recovery of all funds expended under the subgrant.

(5) *Changes to subgrants requiring prior approval.* (i) If a recipient needs to make substantial changes to the scope or objectives, or increase or decrease the amount of funding of more than 10%, of a subgrant approved under