

## § 1634.11

the current recipient, to serve the area currently served by that recipient, the Corporation—

(1) may provide, if the law permits, continued funding to the current recipient, for a period of time and at a level to be determined by the Corporation after consultation with the recipient, to ensure the prompt and orderly completion of or withdrawal from pending cases or matters or the transfer of such cases or matters to the new recipient or to other appropriate legal service providers in a manner consistent with the rules of ethics or professional responsibility for the jurisdiction in which those services are being provided; and

(2) shall ensure, after consultation with the recipient, the appropriate disposition of real and personal property purchased by the current recipient in whole or in part with Corporation funds consistent with the Corporation's policies.

(b) Awards of grants or contracts for legal assistance to any applicant that is not a current recipient may, in the Corporation's discretion, provide for incremental increases in funding up to the annualized level of the grant or contract award in order to ensure that the applicant has the capacity to utilize Corporation funds in an effective and economical manner.

## § 1634.11 Replacement of recipient that does not complete grant term.

In the event that a recipient is unable or unwilling to continue to perform the duties required under the terms of its grant or contract, the Corporation shall take all practical steps to ensure the continued provision of legal assistance in that service area. The Corporation shall have discretion to determine how legal assistance is to be provided to the service area, including, but not limited to, enlarging the service area of a neighboring recipient, putting a current recipient on month-to-month funding or entering into a short term, interim grant or contract with another qualified provider for the provision of legal assistance in the service area until the completion of a competitive bidding process within a reasonable period of time.

## 45 CFR Ch. XVI (10–1–24 Edition)

## § 1634.12 Emergency procedures and waivers.

The President of the Corporation may waive the requirements of §§ 1634.6 and 1634.8(a)(3) and (5) when necessary to comply with requirements imposed by law on the awards of grants and contracts for a particular fiscal year.

## PART 1635—TIMEKEEPING REQUIREMENT

Sec.

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## § 1635.1 What is the purpose of this part?

This part is intended to improve recipient accountability for the use of all funds by:

(a) Assuring that allocations of direct costs to a recipient's LSC grant pursuant to 45 CFR part 1630 are supported by accurate records of the cases, matters, and supporting activities for which the funds have been expended;

(b) Enhancing the recipient's ability to determine the cost of specific functions; and

(c) Increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations.

## § 1635.2 Definitions.

As used in this part—

(a) *Case* means a form of program service in which a recipient employee provides legal assistance to one or more specific clients, including but not limited to providing representation in litigation, administrative proceedings, and negotiations, and such actions as advice, providing brief services, and transactional assistance.

(b)(1) *Case oversight* means a supervisor's review of a case for regulatory compliance, consistency with Case Service Report reporting rules, and

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quality control purposes. Case oversight activities include, but are not limited to, review of file for retainer, citizenship attestation or documentation of eligible non-citizen status, and documentation of financial eligibility determination; review of closing codes; and review of advice provided or pleadings filed.

(2) *Case oversight* activities may be counted as case activity when the supervisor conducts extended review of the substantive legal advice provided in the case. *Case oversight* activities may be reported as a supporting activity when it represents the aggregate of a supervisor's time spent doing brief review of a large number of cases.

(c) *Matter* means an action that contributes to the overall delivery of program services but does not involve direct legal advice to or legal representation of one or more specific clients. Examples of matters include both direct services, such as community education presentations, operating pro se clinics, providing information about the availability of legal assistance, and developing written materials explaining legal rights and responsibilities; and indirect services, such as training, continuing legal education, supervision of program services, preparing and disseminating desk manuals, PAI recruitment, referral, intake when no case is undertaken, and tracking substantive law developments.

(d) *Restricted activities* means those activities that recipients may not engage in pursuant to 45 CFR part 1610.

(e) *Supporting activity* means any action that is not a case or matter.

### § 1635.3 Who is covered by the timekeeping requirement?

Any attorney, paralegal, or other recipient employee who performs work that is charged to one or more awards as a direct cost (as defined in 45 CFR 1630.5(d)) must keep time according to the standards set forth in § 1635.4.

### § 1635.4 What are LSC's timekeeping standards?

(a) Recipients must base allocations of salaries and wages on records that accurately reflect the work performed. These records must:

(1) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(2) Be incorporated into the recipient's official records by no later than the end of the employee's pay period, generally every two weeks;

(3) Reflect the total activity for which the recipient compensates the employee;

(4) Encompass within the grantee's case management system both LSC-funded and all other direct cost activities compensated by the recipient, but may include the use of subsidiary records as defined in the recipient's written policies;

(5) Comply with the recipient's established accounting policies and practices;

(6) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one award or an indirect cost activity and a direct cost activity;

(7) Contain

(i) For cases, a unique client name or case number, the amount of time spent on the case, a description of the activities performed, and the dates on which a recipient employee worked on the case;

(ii) For matters or supporting activities, the amount of time and type of activity on which a recipient employee spent time and sufficient information to link the activity to a specific award or indirect cost amount. For example, if a recipient employee conducts a legal information session on filing a pro se divorce petition, the employee could record "pro se divorce group information session, 1.5 hours."

(b) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(c) Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner