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## **The Legal Services Corporation: Distribution of Funding**

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# The Legal Services Corporation: Distribution of Funding

## Summary

The Legal Services Corporation (LSC) is a private nonprofit, federally funded corporation that helps provide legal assistance to low-income people in civil matters. The primary responsibility of the LSC is to manage and oversee the congressionally-appropriated federal funds that it distributes in the form of grants to local legal services providers that in turn provide civil legal assistance to low-income clients in the United States, the District of Columbia, and five U.S. territories.

Since April 1996 (pursuant to P.L. 104-134), LSC grantees (i.e., local legal services agencies/providers) have been selected on a competitive basis. In FY2004, the LSC distributed \$316.6 million of its \$335.3 million appropriation in the form of grants to 143 local legal services programs; remaining funds were allocated for management and administration (\$13.2 million); information technology (\$2.9 million); and the Office of the Inspector General (\$2.6 million).

LSC funding accounts for about half of all funding in the U.S. for civil legal services for the poor. In 2004, there were approximately 43 million persons who were potentially eligible for LSC-funded services (using the 125% of poverty definition). According to several surveys, about 80% of persons eligible do not have access to civil legal services funded by the LSC when they need them (based on geographic boundaries, service areas, funding, local priorities, etc.). This report will not be updated.

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# The Legal Services Corporation: Distribution of Funding

## Background

The Legal Services Corporation (LSC) is a private nonprofit organization created and funded by Congress to provide legal assistance to low-income people in civil matters. The LSC is governed by a bipartisan 11-member board of directors, nominated by the President and confirmed by the Senate (no more than six members of the board may be of the same political party). Authorizing legislation for the Legal Services Corporation (LSC) was enacted in 1974 (P.L. 93-355).<sup>1</sup> In 1977, Congress extended the Legal Services Corporation Act through FY1980 (P.L. 95-222). Although Congress has not reauthorized the LSC statute since FY1980, it has continued to fund the LSC every year and has included legislative language affecting LSC activities in annual appropriations laws.

## Prohibitions

Since its inception, the legal services program has been controversial, and Congress has imposed restrictions on the activities of local attorneys. The authorizing statute (P.L. 93-355, enacted July 25, 1974) contains restrictions against lobbying, political activities, class actions *except under certain conditions*, and cases involving abortion, school desegregation, and draft registration or desertion from the military.

Additional restrictions have been included in appropriations laws each year. Under the current appropriations law (P.L. 108-199, enacted January 23, 2004), LSC grantees may not: engage in partisan litigation related to redistricting; attempt to influence regulatory, legislative or adjudicative action at the federal, state or local level; attempt to influence oversight proceedings of the LSC; initiate or participate in *any* class action suit; represent certain categories of aliens, except that nonfederal funds may be used to represent aliens who have been victims of domestic violence or child abuse; conduct advocacy training on a public policy issue or encourage political activities, strikes, or demonstrations; claim or collect attorneys' fees; engage in litigation related to abortion; represent clients in eviction proceedings if the eviction was based on drug-related activities; represent federal, state or local

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<sup>1</sup> The federal government has administered a program of legal services for the poor since 1966. Originally, the program was administered through the Office of Economic Opportunity, a now-defunct agency that had spearheaded the War on Poverty in the mid-1960s. In 1971, President Nixon proposed establishment of a separate corporation to deliver legal services to insulate the program from political pressure.

prisoners; participate in efforts to reform a federal or state welfare system;<sup>2</sup> or solicit clients. Also, LSC grantees may not file complaints or engage in litigation against a defendant unless each plaintiff is specifically identified, and a statement of facts is prepared, signed by the plaintiffs, kept on file by the grantee, and made available to any federal auditor or monitor. LSC grantees must establish priorities, and staff must agree in writing not to engage in activities outside these priorities.

Federal law prohibits LSC from receiving nonfederal funds, and grantees are prohibited from receiving non-LSC funds, unless the source of funds is told in writing that these funds may not be used for any activities prohibited by the LSC Act or the appropriations law. However, grantees may use non-LSC funds to comment on proposed regulations or respond to written requests for information or testimony from federal, state, or local agencies or legislative bodies, as long as the information is provided only to the requesting agency and the request is not solicited by the LSC grantee. Grantees are required to maintain time-keeping records and account for any nonfederal funds received.

## **Competitive Bidding Process**

The primary responsibility of the LSC is to manage and oversee the congressionally-appropriated federal funds that it distributes in the form of grants to local legal services providers, which in turn give civil legal assistance to low-income clients in every county in the United States, the District of Columbia, as well as in the five U.S. territories of American Samoa, Guam, Puerto Rico, the Virgin Islands, and Micronesia. Since April 1996 (pursuant to P.L. 104-134), LSC grantees (i.e., legal services agencies/providers) have been selected on a competitive basis.<sup>3</sup>

Under this competitive process, legal services providers in every jurisdiction bid to become the LSC grantee for a designated service area. The number of service areas in each state varies greatly. In California there are currently 33 services areas; whereas, Delaware has two service areas and the District of Columbia and most of the territories have one service area (the exception is Puerto Rico which has three service areas). As noted in the section below entitled Reconfiguration, state planners and the LSC continue to evaluate the LSC grant structure and thus the number of service areas in any given state (including the District of Columbia) or territory is subject to change.

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<sup>2</sup> On Feb. 28, 2001, the Supreme Court held in the case of *Legal Services Corporation v. Velazquez*, 121 S. Ct. 1043 (2001), that an LSC funding restriction related to welfare reform violates the First Amendment (i.e., freedom of speech) rights of LSC grantees and their clients and is thereby unconstitutional. The Supreme Court agreed with the Second Circuit Court's ruling that, by prohibiting LSC-funded attorneys from litigating cases that challenge existing welfare statutes or regulations, Congress had improperly prohibited lawyers from presenting certain arguments to the courts, which had the effect of distorting the legal system and altering the traditional role of lawyers as advocates for their clients.

<sup>3</sup> This system supplanted the previous system of presumptive refunding for LSC grantees. The LSC is prohibited from granting any preference to current or previous grantees of LSC funds (Section 503(e) of P.L. 104-134, enacted Apr. 26, 1996).

During the competition process, the LSC evaluates applications according to established quality standards and awards grants to those providers judged best qualified to provide high-quality legal services in accordance with applicable legal requirements. Federal regulations (Title 45 C.F.R. Part 1634) stipulate the procedures to be followed in awarding LSC grants. Grants are made for one to three years. Multi-year awardees must submit reports and grant renewal forms as part of the annual grant renewal process. In FY2004, of the 212 service areas that received LSC grants, 18 had new service providers (data are based on a comparison of LSC grant awards in FY2000 and FY2004).

## **Current Funding**

In FY2004, the LSC distributed \$316.6 million of its \$335.3 million appropriation in the form of grants to 143 local legal services programs; remaining funds were allocated for management and administration (\$13.2 million); information technology (\$2.9 million); and the Office of the Inspector General (\$2.6 million). LSC funding accounts for about half of all funding in the U.S. for civil legal services for the poor (see discussion of non-LSC funding below). In FY2004, approximately 43 million persons were potentially eligible for LSC-funded assistance (using the 125% of poverty definition).

## **Grantees**

The LSC does not provide legal services directly. Rather, it funds local legal services providers, which are referred to by the LSC as “grantees.” Grantees may include non-profit organizations that have as a purpose the provision of legal assistance to eligible clients, private attorneys, groups of private attorneys or law firms, state or local governments, and certain sub-state regional planning and coordination agencies. Each local legal services program is headed by its own board of directors, of whom about 60% are lawyers admitted to a state bar and one-third are eligible clients. Each local program must spend an amount equal to at least 12.5% of its basic grant to encourage participation by private attorneys in the delivery of legal services to low-income clients.<sup>4</sup> Local programs establish their own eligibility criteria, which may not exceed 125% of the federal poverty guidelines. These local programs provide legal assistance to individuals based on locally determined priorities that meet local community conditions and needs. Local programs hire staff, contract with local attorneys, and develop pro bono programs for the direct delivery of legal assistance to eligible clients.

Although the LSC is the main source of funds for legal services to the poor in most states, it is not the only source of funding. Local legal services programs generally supplement their LSC grants with additional funds from state and local governments, IOLTA (Interest on Lawyer Trust Accounts) programs, other federal

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<sup>4</sup> The Private Attorney Involvement (PAI) funds have been primarily used to promote pro bono service, with joint sponsorship between a local bar association and a LSC grantee. As a result, about 130,000 private attorneys are now registered as volunteer attorneys in LSC-funded pro bono programs. Currently, there are about 350 PAI programs.

programs (such as the Title XX Social Services Block Grant), bar associations, United Way and other charitable organizations, foundations and corporations, and individual donors. They further leverage federal funds by involving private attorneys in the delivery of legal services for the poor, mostly through volunteer pro bono work. According to the LSC FY2005 budget request, LSC funding makes up about half of all funding for the national civil legal services system for the poor.

## Reconfiguration

Beginning in July 1995, in anticipation of funding cutbacks, the LSC started formulating a plan to provide states with an array of strategies by which the legal services programs in the state could stretch federal dollars. The LSC's "State Planning Initiative" was formally introduced in 1998. According to a LSC Special Report to Congress:

Until the implementation of the State Planning Initiative, determining service areas in a given state was more a product of geographic and historical happenstance than a reasoned judgment about the precise configuration that would yield the best legal services system for the greatest number of clients.... With fewer resources to expend and a growing client base to serve, LSC has embraced service area reconfiguration as one important way to "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas."<sup>5</sup>

The number of grantees receiving LSC funding decreased from 325 in 1995 to 262 in 1998, to 207 in 2001, to 170 in 2002, to 161 in 2003, to 143 in 2004. The reduction in the number of local programs is due to both cutbacks in funding and a LSC-initiated reconfiguration of the LSC program in which states were urged to merge, reorganize, and consolidate local programs into a more efficient regional and statewide delivery system of legal services to the poor.

In congressional testimony, the LSC chairman and the LSC president stated that the State Planning Initiative directed:

all LSC programs to develop comprehensive plans to coordinate and integrate their work in seven areas: expanding client access and efficiency; utilizing technology to expand access and enhance services; promoting client self-help and preventative legal education and advice; coordinating legal work and training; collaborating with the private bar and other community stakeholders; expanding grantees' resource development efforts; and configuring LSC service areas in a more efficient and effective manner to enhance client services and reduce barriers to assistance.<sup>6</sup>

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<sup>5</sup> Legal Services Corporation, A Special Report to Congress. *State Planning and Reconfiguration*. Sept. 2001, pp. 2-3, 10.

<sup>6</sup> Testimony in U.S. Congress, House Appropriations Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, Submitted by LSC Chairman, Frank B. Strickland and LSC President, Helaine M. Barnett, Apr. 1, 2004. p. 8, at [[http://www.lsc.gov/press/pr\\_t\\_040104.htm](http://www.lsc.gov/press/pr_t_040104.htm)]. (Hereafter cited as, Testimony by LSC Chairman, and President.)

According to the 2001 LSC Special Report to Congress, the LSC has used its competitive bidding process to ensure that grantees improve and expand legal services to clients in their respective states. Many policymakers and program analysts agree that even with reduced financing grantees have managed to lessen geographic disparities for clients living in remote or underserved areas while simultaneously making the entire legal delivery system for the poor more efficient by merging small legal services programs with larger programs, by providing selfrepresented, pro se, litigants with accurate and easily understood legal information, by promoting the use of video-conferencing by courts to enable witnesses with transportation challenges to testify, and by using technology to improve case management and intake systems. In FY2004, 143 grantees were serving 212 service areas.

Even though LSC grantees are becoming more efficient in stretching reduced funding, the ratio of attorneys to clients has diminished substantially. When the LSC was established in 1974, its foremost goal was to provide all low-income persons with at least “minimum access” to legal services. This was defined as the equivalent of one legal services attorney for every 5,000 poor persons. The goal of minimum access was achieved in FY1980 and FY1981. Currently in most states, there is only one legal services attorney for every 11,500 poor persons.

## **Clients**

Legal services provided through LSC funds are available only in civil matters to individuals with incomes less than 125% of the federal poverty guidelines. The LSC places primary emphasis on the provision of routine legal services and the majority of LSC-funded activities involve routine legal problems of low-income people. Legal services cases deal with a variety of issues including family related issues (divorce, separation, child custody, support, adoption, spousal abuse, child abuse or neglect); housing issues (evictions, foreclosures); welfare or other income maintenance program issues (access to health care, benefit claims); consumer and finance issues (debt collection); and individual rights (employment, health, juvenile, and education). Most cases are resolved outside the courtroom (e.g., via legal advice, referrals, telephone calls by attorneys) which is a very cost-effective approach to settling legal matters.

According to testimony before the House Appropriations Committee on April 1, 2004, by the LSC chairman and the LSC president:

LSC clients represent the diversity of this country, encompassing all races, ethnic groups, and ages. They include the working poor, veterans, family farmers, people with disabilities, and victims of natural disasters. About three-quarters of LSC’s client population are women, many with young children. Almost 11% are elderly. About one-quarter is African-American, about 20% is Hispanic, and approximately 2% are Native American and another 2% are Asian or Pacific Islander in origin.<sup>7</sup>

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<sup>7</sup> Testimony by LSC Chairman, President, p. 6



LSC grantees close about 1 million cases annually (935,793 cases were closed in 2003) in addition to handling another 4 million legal service “matters” (such as helping self-represented (i.e., pro se) litigants obtain the information they need to pursue their lawsuit, disseminating legal services materials in communities, referring clients to appropriate services, providing mediation assistance, etc.). In 2004, there were approximately 43 million persons who were potentially eligible for LSC-funded services (using the 125% of poverty definition). Data from the LSC suggest that only about 20% of persons eligible for LSC-funded services actually had access to those services when they needed them (based on geographic boundaries, service areas, funding, local priorities, etc.).

## Funding for FY2004

**Table 1** shows LSC appropriations for selected years from FY1976 (first full year of program operations) to FY2004. Recent funding for the LSC has leveled off, but current funding still remains below the LSC’s highest level of \$400 million in FY1994 and FY1995. (For more information on LSC appropriations, see CRS Report 95-178, *Legal Services Corporation: Basic Facts and Current Status*.)

**Table 1. LSC Appropriations History, Selected Years**

FY	\$	FY	\$	FY	\$	FY	\$
1976	92	1990	317	1995	400	2000	304
1980	300	1991	328	1996	278	2001	329
1984	275	1992	350	1997	283	2002	329
1988	306	1993	357	1998	283	2003	337
1989	309	1994	400	1999	300	2004	335

The LSC was appropriated \$335.3 million for FY2004, after a 0.59% governmentwide across-the-board rescission and a 0.465% rescission of funding for the Commerce, Justice, State, Judiciary, and Related Agencies appropriation (which includes the LSC). The LSC appropriation included \$316.6 million for grants to local legal services providers to provide legal assistance to clients; of this amount, \$314.1 million was based on the statutory requirement that LSC grants be distributed on a per capita basis with regard to poor persons (in the U.S. and territories)<sup>8</sup> and an

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<sup>8</sup> The LSC is required (P.L. 104-134, Section 501) to use the most recent decennial U.S. census data when it distributes federal funds appropriated for the purpose of providing civil legal assistance to the poor. The LSC grants for FY2003 were the first to be based on the 2000 census data. The 2000 U.S. census reported a 5.75% increase in America’s overall poverty population from 1990 to 2000. Since LSC distributes basic field grants on a per capita basis, grantees with client poverty populations that increased by less than 5.75% lost funding.

additional \$2.5 million was distributed to the 10 states<sup>9</sup> that faced the largest losses resulting from a reallocation of funds based on decennial census (2000) information.

As **Table 2** shows in FY2004, the LSC distributed \$316.604 million of its \$335.300 million appropriation in the form of grants to 143 local legal services programs which operated in more than 900 neighborhood offices. The remainder of the LSC's FY2004 appropriation was allocated for management and administration (\$13.160 million); information technology (\$2.945 million); and the Office of the Inspector General (\$2.573 million).<sup>10</sup> As shown in **Chart 1**, the LSC spends less than 4% of its appropriation on management and administration; 1% on information and technology, 1% on the Office of Inspector General, and the remaining 94% on local legal services programs.

**Table 2** also shows LSC spending per poor person in each of the states, the District of Columbia, and the territories for FY2004. The variation occurs because some jurisdictions lost funding because their poverty populations increased by less than the nationwide increase during the period from 1990-2000; some jurisdictions gained funding because their poverty populations increased by more than the nationwide increase during the period from 1990-2000; some states were given additional funding to offset losses due to census-based LSC funding adjustments resulting from the change in poverty population during the period 1990-2000; and the poverty counts are derived differently for Alaska, Hawaii, the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, and the United States Virgin Islands. **Table 2** indicates that the average amount of LSC funding per poor person nationwide was \$8.78 in FY2004;<sup>11</sup> the comparable figure in FY1994 was \$12.60. If adjusted for inflation (in 2004 dollars based on the Consumer Price Index for all urban consumers), the decline in LSC spending per poor person over the period 1994-2004 is more pronounced, from \$16.08 in 1994 to \$8.78 in 2004.

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<sup>9</sup> In 2004, the 10 states that received additional funds based on a redistribution of the poverty population during the period 1990-2000 were Michigan, Ohio, Louisiana, Mississippi, Illinois, Kentucky, Wisconsin, Minnesota, Pennsylvania, and Iowa.

<sup>10</sup> The LSC currently employs 94 full-time staff. In addition, the LSC's Inspector General's Office currently employs 17 full-time staff.

<sup>11</sup> The reader should note that this per capita figure may be somewhat overstated because some states received additional funding based on the redistribution of the poverty population. The LSC FY2005 budget request indicates that LSC funding per poor person amounted to \$8.54 in FY2004.

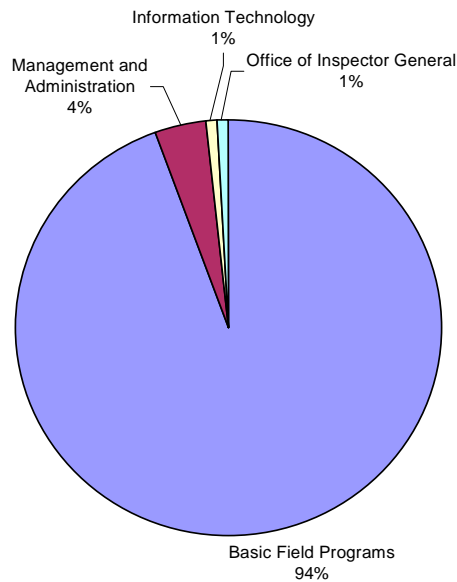
**Table 2. Legal Services Corporation Funding, by Jurisdiction, FY2004**

State	Poverty population (census 2000)	FY2004 LSC funding	LSC spending per poor person	Number of LSC programs
Alabama	698,097	\$5,912,796	\$8.47	1
Alaska	80,405	1,177,305	14.64	1
Arizona	698,669	8,897,131	12.73	3
Arkansas	411,777	3,487,656	8.47	2
California	4,706,130	40,670,572	8.64	11
Colorado	388,952	3,382,463	8.70	1
Connecticut	259,514	2,197,135	8.47	1
Delaware	69,901	592,046	8.47	1
District of Columbia	109,500	927,440	8.47	1
Florida	1,952,629	16,538,310	8.47	7
Georgia	1,033,793	8,755,982	8.47	2
Hawaii	150,439	1,484,394	9.87	2
Idaho	148,732	1,319,344	8.87	1
Illinois	1,291,958	11,092,289	8.59	3
Indiana	559,484	4,738,699	8.47	1
Iowa	258,008	2,295,672	8.90	1
Kansas	257,829	2,183,752	8.47	1
Kentucky	621,096	5,415,021	8.72	4
Louisiana	851,113	7,482,608	8.79	4
Maine	135,501	1,255,443	9.27	1
Maryland	438,676	3,715,484	8.47	1
Massachusetts	573,421	4,841,505	8.44	6
Michigan	1,021,605	9,192,342	9.00	6
Minnesota	380,476	3,570,944	9.39	6
Mississippi	548,079	4,910,808	8.96	2
Missouri	637,891	5,402,787	8.47	4
Montana	128,355	1,233,254	9.61	1
Nebraska	161,269	1,396,243	8.66	1
Nevada	205,685	1,864,130	9.06	1
New Hampshire	78,530	656,025	8.35	1
New Jersey	699,668	5,926,023	8.47	6
New Mexico	328,933	3,233,218	9.83	1
New York	2,692,202	22,802,319	8.47	7
North Carolina	958,667	8,319,963	8.68	1
North Dakota	73,457	869,359	11.83	1
Ohio	1,170,698	10,284,385	8.78	6
Oklahoma	491,235	4,912,027	10.00	2
Oregon	388,740	3,461,941	8.91	3
Pennsylvania	1,304,117	11,045,569	8.47	8
Rhode Island	120,548	1,019,395	8.46	1
South Carolina	547,869	4,640,323	8.47	1
South Dakota	95,900	1,669,084	17.40	2
Tennessee	746,789	6,325,128	8.47	4
Texas	3,117,609	26,434,138	8.48	3
Utah	206,328	1,823,046	8.84	1
Vermont	55,506	462,704	8.34	1

State	Poverty population (census 2000)	FY2004 LSC funding	LSC spending per poor person	Number of LSC programs
Virginia	656,641	5,561,596	8.47	6
Washington	612,370	\$5,448,046	8.90	1
West Virginia	315,794	2,674,702	8.47	1
Wisconsin	451,538	4,103,878	9.09	2
Wyoming	54,777	622,625	11.37	1
American Samoa	35,574	301,304	8.47	1
Guam	34,792	294,680	8.47	1
Micronesia	178,317	1,510,302	8.47	1
Puerto Rico	1,818,687	15,973,072	8.78	2
Virgin Islands	34,931	295,858	8.47	1
States and D.C.	33,168,398	\$291,138,948	8.78	135
States, DC, and Territories	36,049,201	\$316,604,265	\$8.78	143

Source: Compilation of state and territory data from the LSC website [<http://www.lsc.gov/fundprog.htm>]

Figure 1. LSC FY2004 Appropriation



Source: Table prepared by the Congressional Research Service based on data from — U.S. Congress, House Departments of Commerce, Justice, and State, The Judiciary, and Related Agencies Appropriations for 2005, Hearings before a Subcommittee of the House Committee on Appropriations, Part 4. Legal Services Corporation. U.S. Government Printing Office, 2004, p. 871.

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