

CRS Report for Congress

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Legal Services Corporation: Basic Facts and Current Status

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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. Although the authorization of appropriations for the LSC expired at the end of FY1980, the LSC has operated for the past 25 years under annual appropriations laws. P.L. 109-108 included \$330.8 million for FY2006 for the LSC and also included a 0.28% rescission of funding for the Commerce, Justice, State, Judiciary, and Related Agencies appropriation (which includes the LSC). Moreover, P.L. 109-148 included a 1% government-wide rescission for discretionary programs, thereby lowering the FY2006 LSC appropriation to \$326.6 million. For FY2007, the Bush Administration requested \$310.9 million for the LSC. On June 29, 2006, the House passed H.R. 5672 (H.Rept. 109-520), the appropriations bill that included \$338.9 million for the LSC for FY2007. A floor amendment increased LSC funding from the \$313.9 million provided in the House report to \$338.9 million. This is \$28 million above the FY2007 budget request and \$12 million above the FY2006 final appropriation (after the rescissions). On July 13, 2006, the Senate Appropriations Committee recommended \$358.5 million for the LSC for FY2007. This report, which is regularly updated, provides background information and tracks relevant legislation and appropriations.

Legislative History

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 led 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. Authorizing legislation was enacted in 1974 (P.L. 93-355), and the LSC came into existence the following year. In 1977, the LSC was extended through FY1980 (P.L. 95-222). Although Congress has not reauthorized the LSC statute since FY1980, it has continued to fund LSC every year and has included legislative language affecting LSC activities in annual appropriations laws.

Funding History

When the LSC was first established, its initial goal was to provide all low-income people with at least “minimum access” to legal services, defined as the equivalent of one legal services attorney for every 5,000 poor persons. This goal was briefly achieved in FY1980, but not maintained due to inflation and subsequent budget cuts. For example, in FY2004, the LSC estimated an appropriation of \$683 million would have been needed for minimum access. According to a 2005 LSC study, there is one legal services attorney for every 6,861 poor persons. Funds for the LSC are (beginning in calendar year (CY) 2005) included in the annual appropriation for Science, the Departments of State, Justice, and Commerce, and Related Agencies (House) and Commerce, Justice, Science, and Related Agencies (Senate). **Table 1** shows LSC appropriations for selected years from FY1976 (first full year of LSC operations) to FY2006. Current funding remains below the LSC’s highest funding level of \$400 million in FY1994 and FY1995. LSC funding accounts for about half of all funding for civil legal services for the poor in the U.S.

Table 1. LSC Appropriations History

(\$ in millions)

FY	\$	FY	\$	FY	\$	FY	\$	FY	\$
1976	92	1990	317	1995	400	2000	304	2005	331
1980	300	1991	328	1996	278	2001	329	2006	327
1984	275	1992	350	1997	283	2002	329		
1988	306	1993	357	1998	283	2003	337		
1989	309	1994	400	1999	300	2004	335		

FY1996. For FY1996, Congress funded the LSC at \$278 million, for a reduction of almost 31% from the previous year. In its FY1996 budget resolution, the House assumed a three-year phase-out of the LSC, recommending appropriations of \$278 million in FY1996, \$141 million in FY1997, and elimination by FY1998. The House Budget Committee stated in its report (H.Rept. 104-120): “Too often, ... lawyers funded through federal LSC grants have focused on political causes and class action lawsuits rather than helping poor Americans solve their legal problems.... A phase out of federal funding for the LSC will not eliminate free legal aid to the poor. State and local governments, bar associations, and other organizations already provide substantial legal aid to the poor.” The FY1996 appropriation for the LSC entirely eliminated funding for supplemental legal assistance programs, including Native American and migrant farm worker support, national and state support centers, regional training centers, and other national activities.

FY1997-FY2000. Between FY1996 and FY2001, LSC funding was gradually increased. For FY1997, Congress funded the LSC at \$283 million (P.L. 104-208). For FY1998, Congress again funded the LSC at \$283 million (P.L. 105-119). For FY1999, Congress funded the LSC at \$300 million (P.L. 105-277). For FY2000, Congress funded the LSC at \$305 million, but also included a provision in the legislation that mandated a 0.38% government-wide rescission of discretionary budget authority for FY2000. The funding for the LSC was thereby decreased to \$304 million (P.L. 106-113).

FY2001. For FY2001, the Clinton Administration requested \$340 million for the LSC. The Clinton Administration had requested \$340 million every year since FY1997, in an effort to partially restore the 1996 cutback in funding. The proposal would have continued all existing restrictions on LSC-funded activities. For FY2001, the House

Appropriations Committee recommended a total of \$141 million for the LSC (H.R. 4690). On June 26, 2000, the House approved H.R. 4690 which included \$275 million for the LSC. For FY2001, the Senate Appropriations Committee recommended a total of \$300 million for the LSC. The Senate, however, did not vote on its version of the bill. Instead, it approved the version approved by the conference committee, which was agreed to on October 26, 2000. The conference report on H.R. 4942 (H.Rept. 106-1005) provided \$330 million for LSC for FY2001. Both the House and the Senate approved the conference committee recommendation for LSC. H.R. 4942, signed by President Clinton on December 21, 2000 as P.L. 106-553, included \$330 million for LSC. (See **Table 2** for funding for the components of the LSC for FY2001-FY2006.) The reader should note that P.L. 106-554 mandated a 0.22% government-wide rescission of discretionary budget authority for FY2001 for almost all government agencies. Thus, the \$330 million appropriation for LSC for FY2001 was reduced to \$329.3 million.

FY2002. For FY2002, the Bush Administration requested \$329.3 million for LSC. For FY2002, the House Appropriations Committee recommended a total of \$329.3 million for LSC. In carrying out LSC's vision of an effective and efficient statewide system of delivering legal services to the poor, grantees had been merging and reconfiguring their legal services programs to better use every federal dollar allocated to them. The House report (H.Rept. 107-139) indicated concern about the LSC overruling, without appeal, certain configurations implemented by grantees via the state planning process. The House report directed LSC to review the state planning process and the concerns raised and report back to the Committee by September 4, 2001, with a proposal (including input from the stakeholders) that outlined the reconfiguration standards and the process for states to appeal LSC's decisions. On July 18, 2001, the House passed H.R. 2500, which included \$329.3 million for LSC. For FY2002, the Senate Appropriations Committee also recommended \$329.3 million for LSC. On September 13, 2001, the Senate passed H.R. 2500, which included \$329.3 million for LSC. The conference report on H.R. 2500 included \$329.3 million for LSC for FY2002. It also included existing provisions restricting the activities of LSC grantees. The conference report (H.Rept. 107-278) was passed by the House on November 14, and by the Senate on November 15. H.R. 2500 was signed into law (P.L. 107-77) on November 28, 2001.

FY2003-FY2005. From FY2003 through FY2005, LSC funding decreased slightly. For FY2003, Congress funded the LSC at \$336.6 million (P.L. 108-7); this funding level included a \$9.5 million allotment to offset decennial Census funding reallocations (i.e., to partially compensate some service areas for smaller LSC funding levels for FY2003 than the area received for FY2002 as a result of the change in state poverty populations based on census data for 2000), and a mandated 0.65% government-wide rescission.

For FY2004, Congress again funded the LSC at \$335.3 million (P.L. 108-199); this funding level included a 0.59% across-the-board government-wide rescission and an additional 0.465% uniform rescission applicable only to funding for the Commerce, Justice, State, and Related Agencies appropriation (which includes the LSC).

For FY2005, Congress funded the LSC at \$330.8 million (P.L. 108-447); this funding level included a provision that allowed the LSC to spend up to \$1 million of prior-year funding balances for a school student loan repayment pilot program, a 0.8% across-the-board government-wide rescission, and an additional 0.54% uniform rescission

applicable only to funding for the Commerce, Justice, State, and Related Agencies appropriation (which includes the LSC).

Table 2. LSC: Funding for Program Components, FY2001-FY2006
(\$ in millions)

LSC program components	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
Basic field programs	\$309.3	\$310.0	\$308.0	\$316.4	\$312.4	\$308.4
Management and administration	10.8	12.4	13.2	13.0	12.8	12.7
Client self-help and information technology	6.9	4.4	3.4	1.3	1.3	1.2
Office of the Inspector General	2.2	2.5	2.6	2.6	2.5	2.5
Offset for census-based reallocations	0.0	0.0	9.4	1.8	1.8	1.8
Total	\$329.3	\$329.3	\$336.6	\$335.3	\$330.8	\$326.6

Note: These data reflect appropriations after all rescissions; numbers may not add to total due to rounding.

FY2006. For FY2006, the Bush Administration requested \$318.3 million for the LSC. The budget request also included existing provisions restricting the activities of LSC grantees. On June 16, 2005, the House passed the Appropriations Committee's recommended funding level of \$330.8 million for the LSC for FY2006 (H.R. 2862; see H.Rept. 109-118). This is the same amount as the FY2005 appropriation after the rescissions. The House bill also included existing provisions restricting the activities of LSC grantees. In addition, the House bill included text that encouraged the LSC to proceed with the planned pilot loan repayment assistance plan for attorneys (no funding) and advised the LSC to reduce its rent for its office space (by eliminating some office space and negotiating a more competitive cost per square foot). On June 23, 2005, the Senate Appropriations Committee recommended \$324.5 million for the LSC for FY2006 (S.Rept. 109-88). The bill included existing provisions restricting the activities of LSC grantees. On September 15, 2005, the Senate passed an amended version of the Appropriation Committee's recommendation. It included \$358.5 million for the LSC for FY2006. (S.Amdt. 1659 to H.R. 2862, introduced by Senator Harkin on September 9, increased LSC funding from \$324.5 million to \$358.5 million.)

On November 9, 2005, the House passed the conference report on H.R. 2862 (H.Rept. 109-272). It included \$330.8 million for the LSC, the same amount that was originally passed by the House, instead of \$358.5 million as passed by the Senate. The conference report also incorporated, by reference, language in the House report regarding rent costs, and included existing provisions restricting the activities of LSC grantees. The conference report also included a general rescission equal to 0.28% of funding for the Science, State, Justice, Commerce, and Related Agencies appropriation (which includes the LSC). On November 16, the Senate passed the conference report on H.R. 2862. On November 22, 2005, the bill was signed into law (P.L. 109-108). Moreover, P.L. 109-148 included a 1% government-wide rescission on discretionary programs. Thus, the LSC appropriation for FY2006 was lowered to \$326.6 million.

FY2007. For FY2007, the Bush Administration requested \$310.9 million for the LSC.¹ This amount is almost \$16 million below the FY2006 funding level for the LSC. The budget request includes existing provisions restricting the activities of LSC grantees.

On June 20, 2006, the House Appropriations Committee recommended a total of \$313.860 million for the LSC (H.R. 5672; H.Rept. 109-520), and included existing provisions restricting the activities of LSC grantees. This is \$3 million above the FY2007 budget request and \$12.7 million below the FY2006 final appropriation. Since the LSC is a private, nonprofit corporation, it is not required to comply with federal laws related to employment, travel, and other administrative procedures, but the committee bill requires that the LSC submit a report to the committee no later than February 1, 2007, describing whether, in fact, LSC procedures adhere to federal law and, if discrepancies exist, proposals to modify LSC procedures so that they will comply with federal law. On June 27, 2006, the House passed a floor amendment (by Representative Obey) that increased the LSC funding level by \$25 million, from \$313.9 million (in the House report) to \$338.9 million. The LSC would receive \$321.9 million for basic field programs and required independent audits, \$12.7 million for management and administration, \$1.2 million for client self-help and information technology, and \$3.0 million for the Office of the Inspector General. The House passed H.R. 5672 on June 29, 2006.

On July 13, 2006, the Senate Appropriations Committee recommended a total of \$358.527 million for the LSC (H.R. 5672; S.Rept. 109-280), and included existing provisions restricting the activities of LSC grantees. This is \$47.7 million above the FY2007 budget request, \$31.9 million above the FY2006 final appropriation, and \$19.7 million above the House-passed version of the bill. The LSC would receive \$337.8 million for basic field programs and required independent audits; \$12.8 million for management and administration; \$3.0 million for client self-help and information technology; \$3.0 million for the Office of the Inspector General; and \$2.0 million in grants to offset losses stemming from the 2000 census-based reallocations.

Current Activities

Pursuant to its 1998 State Planning Initiative, the LSC has sought to streamline its delivery system. During 2004, the LSC funded 143 local programs (which operated in all 50 states, D.C., and five U.S. territories) employing about 3,700 attorneys. (See CRS Report RL32451, *The Legal Services Corporation: Distribution of Funding*.) These numbers are reduced from 1994, when 320 local programs employed about 4,500 attorneys. Each local program is governed by its own board of directors, of which a majority are attorneys and one-third are eligible clients. Local programs establish their own eligibility criteria, which may not exceed 125% of the federal poverty guidelines.

¹ Each year the LSC submits a budget request to Congress. In most years the LSC budget request is significantly higher than the amount that appears in the President's annual budget. For FY2007, the LSC requested an appropriation of \$411.8 million, a 32% increase over the President's budget request of \$310.9 million for the LSC. The reasons cited in the LSC Budget Request for Fiscal Year 2007 for the significant increase in requested funding for the LSC included legal problems of existing and new clients stemming from Hurricanes Katrina, Rita, and Wilma that struck the Gulf Coast in 2005 along with recent LSC findings that there is significant unmet need among America's poorest populations with regard to attaining civil legal assistance.

Each local program must spend an amount equal to at least 12.5% of its basic grant to encourage private attorneys to participate in the delivery of legal aid to the poor. The LSC is governed by an 11-member board, appointed by the President and confirmed by the Senate, of which no more than six members may be of the same political party.

During 2004, legal services attorneys closed 901,067 cases. Family issues such as child support, divorce, and separation were the substance of about 40% of cases handled by field offices; housing issues, including eviction cases, comprised about 25% of cases; income maintenance issues represented another 15% of cases; and consumer, finance, and individual rights issues comprised about 20% of cases. Most of the cases handled by LSC are resolved through advice and referral. Only about 14% of cases were resolved in court, primarily because they involved family law issues (e.g., protective orders, child support, etc.) in which court action was required by state law. In 2005, LSC staff were directed to document the extent to which the civil legal needs of low-income persons were not being met. Based on three methodologies, the LSC found that (1) 50% of potential clients requesting legal assistance were denied assistance because the LSC did not have the resources to help them, (2) eight of nine state studies conducted in the last five years indicated that at least 80% of persons who were eligible for LSC services do not have access to such services when they need them, and (3) there is one legal services attorney for every 6,861 low-income persons; the comparable number for the general population is one attorney for every 525 persons, a difference of 13 to one.²

Restrictions on Activities

Since its inception, the legal services program has been controversial, and Congress has imposed restrictions on the activities of local attorneys. The authorizing statute 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, 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 both LSC and non-LSC 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 prisoners; participate in efforts to reform a federal or state welfare system; engage in activities related to assisted suicide, euthanasia, or mercy killing; or solicit clients. LSC grantees must establish priorities, and staff must agree in writing not to engage in activities outside these priorities. Moreover, 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.

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² Legal Services Corporation. *Documenting the Justice Gap in America — The Current Unmet Civil Legal Needs of Low-Income Americans*. September 2005