



# Northwest Justice Project

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May 19, 2015

Ms. Stefanie K. Davis  
Assistant General Counsel  
Legal Services Corporation  
3333 K Street NE  
Washington, D.C. 20007

**Re: Comments to Notice of Proposed Rulemaking for Part 1627, 1610, 1630 (Subgrants), 80 FR 21692, April 20, 2015, and Part 1628 (Fund Balance), 80 FR 21700, April 20, 2015**

Dear Ms. Davis:

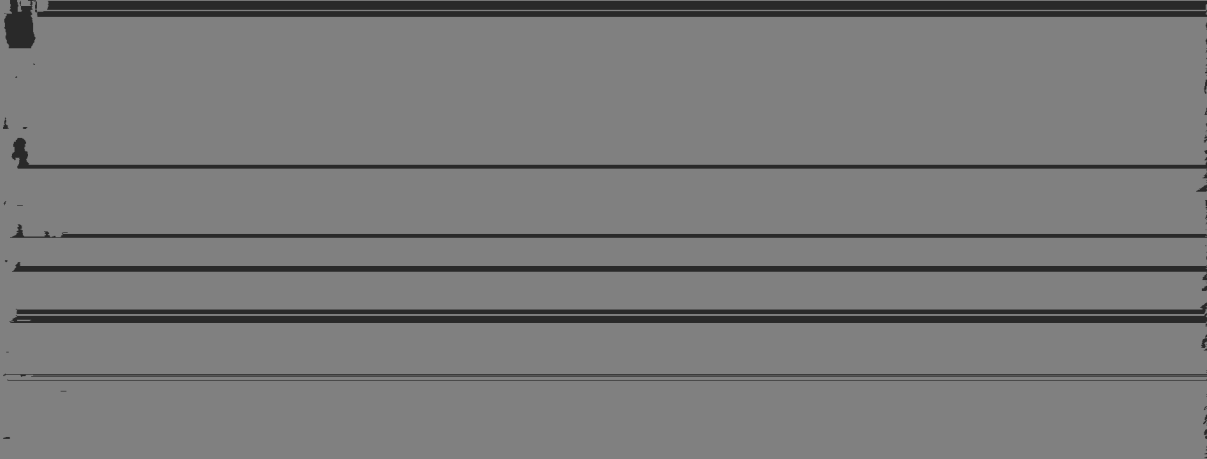
The Northwest Justice Project (NJP) is pleased to submit comments on proposed revisions to 45 C.F.R. Parts 1627, 1610, 1630 and Part 1628. Our goal in submitting these comments is to address some ambiguities in language in 1627 and the need to encourage maximum use of

to ensure that all eligible federal agencies for these purposes. Recent changes to 45 C.F.R.

[REDACTED]

subrecipient...to carry our part of the recipient's programmatic activities." It appears LSC intends "programmatic" to be limited the actual provision of legal assistance to eligible clients. It expressly excludes "goods and services to vendors or consultants."

But the language used in both subsections (h) and (d)(1) can be construed to go beyond the



provision of legal assistance as it includes "activities or functions carried out" to provide legal assistance. The current regulation explicitly defines the types of "programmatic" activities that could be provided through a "subgrant" and includes "representation of clients, or which provide direct support to a recipient's legal assistance activities or such activities as client involvement, training or state support activities." 45 C.F.R. 1627.2(b)(1).

The proposed definition of "programmatic" as "*activities and functions carried out to provide*" legal assistance is far broader. "Activities and functions carried out to provide legal assistance" is virtually everything an LSC recipient program undertakes, regardless of whether it is the direct provision of legal assistance. Such activities and functions include paying bar dues, conference registration fees, office rent, travel reimbursements to staff, providing fee-for-service contracts to lawyers or legal organizations that provide ongoing expertise in support of recipients' delivery of legal assistance, none of which are "vendors or consultants". While subgrants would appear to be limited to the activities and functions that have the characteristics set out in proposed 1627.3, those characteristics refer only to distinctions between a subgrant and procurement contract and do not include payments made to support "activities and functions" such as those identified above that are necessary to carry out the provision of legal assistance.

If the goal is to limit subgrants to the direct delivery of legal assistance then "programmatic" should be defined accordingly as follows:

(b) *Programmatic* means the delivery of legal assistance to eligible clients, as defined in § 1002 of the LSC Act, 42 U.S.C. 2996a(5). Programmatic does not include the provision of goods and services provided by vendors or consultants in the normal course of business that the recipient would not be expected to provide itself and



As written, the above definition is somewhat ambiguous and lacking in definition. For

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[REDACTED]

While we welcome the proposed process that would allow a recipient to convert a contract to a subgrant mid-year should a case or cases unexpectedly become far more time-consuming than anticipated, we also propose reducing the need to do so repeatedly for small contracts by raising the subgrant threshold in order to be more efficient and to focus efforts on higher risk / higher value contacts.

Increasing the threshold to \$60,000 will bring the current requirement in line with LSC's intent at the time the requirement went into effect, which was to require subgrant approval where a substantial amount of money is being paid to a third party to provide legal assistance to eligible clients. LSC should adopt the reasoning that led to adoption of a \$25,000 threshold in 1992 and update the threshold amount to an equivalent amount in 2015 dollars.

