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LEGAL SERVICES CORPORATION

Agricultural Worker Population Data for Basic Field—Migrant Grants

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: The Legal Services Corporation (LSC) provides special population grants to effectively and efficiently fund civil legal aid services to address the legal needs of agricultural workers and their dependents through grants entitled “Basic Field—Migrant.” The funding for these grants is based on data regarding the eligible client population to be served. LSC has obtained from the U.S. Department of Labor new data regarding this population that are more current than the data LSC has been using and that better reflect the population to be served. On February 3, 2015, LSC sought comments on the use of that data for grants beginning in January 2016 and related issues. Based on the comments received, LSC will not use the data for 2016 grants. LSC will make public additional information underlying the new data, contract with the Department of Labor for assistance addressing issues raised in the comments, consider development of revised data, and seek public comment on any revised data and a revised implementation plan. Implementation would begin January 2017.

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SUPPLEMENTARY INFORMATION: The Legal Services Corporation (“LSC” or “Corporation”) was established through the LSC Act “for the purpose of providing financial support for legal assistance in noncriminal matters or proceedings to persons financially unable to afford such assistance.” 42 U.S.C. 2996b(a). LSC performs this function primarily through distributing funding appropriated by Congress to independent civil legal aid programs that provide legal services to low-income persons throughout the United States and its possessions and territories. 42 U.S.C. 2996e(a)(1)(A). LSC designates geographic service areas and structures grants to support services to the entire eligible population in a service area or to a specified subpopulation of eligible clients. 45 CFR 1634.2(c) and (d), 1634.3(b). LSC awards these grants through a competitive process. 45 CFR part 1634. Congress has mandated that LSC “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.” 42 U.S.C. 2996f(a)(3).

Throughout the United States and U.S. territories, LSC provides Basic Field—General grants to support legal services for eligible clients. LSC provides funding for those grants on a per-capita basis using the poverty population as determined by the U.S. Census Bureau every three years. Sec. 501(a), Pub. L. 104-134, 110 Stat. 1321, 1321-50, as amended by Pub. L. 113-6, div. B, title IV, 127 Stat. 198, 268 (LSC funding formula adopted in 1996, incorporated by reference in LSC’s appropriations thereafter, and amended in 2013). Since its establishment in 1974, LSC has also provided subpopulation

grants to support legal services for the needs of agricultural workers through Basic Field—Migrant grants under the authority of the LSC Act to structure grants for the most economic and effective delivery of legal assistance. 42 U.S.C. 2996f(a)(3). Congress amended the LSC Act in 1977 to require that LSC conduct a study of the special legal needs of various subpopulations, including migrant or seasonal farm workers, and develop and implement appropriate means of addressing those needs. 42 U.S.C. 2996f(h). LSC’s study, issued in 1979, concluded that specialized legal expertise and knowledge were needed to address the distinctive “unmet special legal problems” that migrant and seasonal farmworkers shared because of their status as farmworkers. Legal Services Corporation, *Special Legal Problems and Problems of Access to Legal Services of Veterans, Migrant and Seasonal Farm Workers, Native Americans, People, with Limited English-Speaking Ability, and Individuals in Sparsely Populated Areas*, 1979.

LSC provides funding for Basic Field—Migrant grants on a per-capita basis by determining the size of the subpopulation and separating that population from the overall poverty population for the applicable geographic area or areas. LSC expects programs receiving these grants to serve the legal needs of a broad range of eligible agricultural workers and their dependents who have specialized legal needs that are most effectively and efficiently served through a dedicated grant program. LSC currently uses data regarding migrant and seasonal farmworkers, and their families, from the early 1990s, with some adjustments based on changes in the general poverty population. These data are no longer current and do not reflect the entire population served by these grants.

The United States Department of Labor, Employment and Training Administration (ETA), collects data regarding agricultural workers for federal grants

serving the needs of the American agricultural worker population. The U.S. Census Bureau does not maintain data regarding agricultural workers. LSC has contracted with ETA to obtain more current data regarding the agricultural worker population served by these grants. ETA has provided LSC with these data, including state-by-state breakdowns. The changes in data will result in changes in funding levels for these grants.

In January of 2015, LSC management (Management) proposed to the LSC Board of Directors (Board) that LSC seek comments on using the new data for these grants as follows:

(1) Implementing the new data for calculation of these grants beginning in January 2016;

(2) phasing in the funding changes to provide intermediate funding halfway between the old and new levels for 2016 and to fully implement the new levels for 2017; and

(3) updating the data every three years on the same cycle as LSC updates poverty population data from the U.S. Census Bureau for the distribution of LSC's Basic Field—General grants.

Upon approval by the Board's Operations and Regulations Committee (Committee) on January 22, 2015, and the Board on January 24, 2015, LSC published a notice for comment on this proposal in the Federal Register on February 3, 2015, 80 FR 5791. LSC extended the comment period to April 20, 2015, via notice in the Federal Register on March 19, 2015, 80 FR 14413. Management's proposal, related documents and the comments submitted are available at: <http://www.lsc.gov/about/mattersforcomment.php>.

LSC received eleven comments from ten individuals or organizations. The National Legal Aid and Defender Association (NLADA) submitted two comments—one from the NLADA Civil Policy Group and one from the NLADA Farmworker Section.

The comments all supported the proposal to use more current data for apportioning funding to and among these grants. Some comments raised concerns about the source data and the methodology used. In particular, concerns were raised about the types of state groupings used for distribution of the data among the states. Those comments stated that the groupings did not accurately reflect the patterns of employment and residence for low-income agricultural workers and their dependents. Some comments identified additional sources of data for determining the relevant populations in some states. Comments also sought additional access to the source data and methodology used by the Department of Labor. Other issues raised by the comments included the scope of the definition of “agricultural worker,” implementation over two or three years, and adjustments to the data for aliens eligible under federal law for LSC services based on sexual abuse, domestic violence, trafficking, or other abusive or criminal activities. See 45 CFR 1626.4—Aliens eligible for assistance under anti-abuse laws.

Based on these comments, Management proposed to the Committee that LSC further investigate improvements to the data, postpone prospective implementation until January 2017, seek additional comments on revised options, and publish this notice. On July 16, 2015, the Committee approved Management’s proposal. On July 18, 2015, the Board adopted the recommendation of Management and the Committee.

Management has contracted with ETA to obtain expert review of the issues regarding source data and methodology raised by the comments. Management will

publish on the Matters for Comment page of www.lsc.gov additional information regarding the source data and methodology. Management will also determine whether ETA can provide revised data based on some of the considerations raised in the comments. Based on this review and any other relevant information, LSC will publish for comment any revised data and a proposal for implementation. Implementation would begin January 2017.

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