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To: GRANTEE INDEPENDENT PUBLIC ACCOUNTANTS (IPAs)

From: Roxanne Caruso
Assistant Inspector General for Audit

Subject: Guidance on the Application of 45 CFR Part 1628 – Recipient Fund Balance Requirements.

Date: May 19, 2021

On March 11, 2021, Legal Services Corporation (LSC) issued [Program Letter 2021-02](#), LSC Excess Fund Balance Waiver Blanket Approval – FYE 12/31/2020 and 1/31/2021. The Program Letter recognizes that many LSC recipients may have excess fund balances due to receiving additional COVID-19 related funds from LSC and other sources. LSC determined that all LSC recipients with a December 31, 2020, or January 31, 2021, fiscal year end (FYE) will be allowed to carry over any excess LSC fund balance into the next fiscal year, regardless of the amount.

LSC regulation 45 CFR Part 1628 – Recipient Fund Balances, describes a process for LSC recipients to request a waiver when their end of year fund balance of non-special purpose or one-time grant funds exceed a 10 percent threshold. The regulations state that a recipient may request a waiver on fund balances in excess of the 10 percent threshold within 30 days **after** the submission to the Office of Inspector General (OIG) of its audited financial statements. If LSC denies the waiver, the recipient must repay any balance over the 10 percent threshold.

In light of the potential increase in LSC recipients reporting excess fund balances for FYE December 31, 2020, we would like to emphasize that a recipient is not in violation of Part 1628 unless it did not request or receive a waiver and failed to repay LSC the excess amount. **Please note that the excess fund balance is reported in one fiscal year and then the waiver or repayment, as applicable, occurs the following fiscal year.**

The LSC Compliance Supplement, Part 1628 – Recipient Fund Balances, has a suggested audit procedure to calculate the recipient's **prior** year-end LSC fund balance. The procedure also helps to determine whether the recipient's fund balance exceeded 10 percent of its annualized support and whether a waiver was requested and received, or if

LSC was repaid. In this circumstance, prior year-end refers to the year prior to the fiscal year under audit.

Take for example an IPA who conducted an FYE December 31, 2018, audit of an LSC recipient. This recipient ended the 2018 fiscal year with a fund balance of 16 percent of LSC basic field funds. The fiscal year 2018 audited financial statements are issued on April 25, 2019 and the recipient requests a waiver for the excess six percent on May 25, 2019, which LSC grants.

The excess funds are available for expenditure in FYE December 31, 2019. In 2020, the IPA conducts an audit on the 2019 fiscal year and determines compliance with the Part 1628 fund balance waiver requirement requested for the fund balance remaining at the end of the prior year (FYE 2018).

We understand that many IPAs of LSC recipients have completed their FYE December 31, 2020 audits. However, we would like to ensure that the suggested audit procedures for Part 1628 are completed as intended. As OIG conducts its reviews of these financial statements, we will reach out to IPAs on a case-by-case basis, as appropriate, to discuss related matters.

For further information, you can access the “IPA Resources” section of the OIG website, found at the top of the homepage at oig.lsc.gov.

Please email audits@oig.lsc.gov or Roxanne Caruso, Assistant Inspector General for Audit, at rcaruso@oig.lsc.gov, with any questions.