

Legal Services Corporation

§ 1640.4

§ 1640.1 Purpose.

The purpose of this part is to ensure that recipients use their LSC funds in accordance with Federal law related to the proper use of Federal funds. This part also identifies the Federal laws which apply, and it provides notice of the consequences to a recipient of a violation of such Federal laws by a recipient, its employees or board members.

§ 1640.2 Definitions.

(a)(1) *Federal law relating to the proper use of Federal funds* means:

- (i) 18 U.S.C. 201 (Bribery of Public Officials and Witnesses);
- (ii) 18 U.S.C. 286 (Conspiracy to Defraud the Government With Respect to Claims);
- (iii) 18 U.S.C. 287 (False, Fictitious or Fraudulent Claims);
- (iv) 18 U.S.C. 371 (Conspiracy to Commit Offense or Defraud the United States);
- (v) 18 U.S.C. 641 (Public Money, Property or Records);
- (vi) 18 U.S.C. 1001 (Statements or Entries Generally);
- (vii) 18 U.S.C. 1002 (Possession of False Papers to Defraud the United States);
- (viii) 18 U.S.C. 1516 (Obstruction of Federal Audit);
- (ix) 31 U.S.C. 3729 (False Claims);
- (x) 31 U.S.C. 3730 (Civil Actions for False Claims), except that actions that are authorized by 31 U.S.C. 3730(b) to be brought by persons may not be brought against the Corporation, any recipient, subrecipient, grantee, or contractor of the Corporation, or any employee thereof;
- (xi) 31 U.S.C. 3731 (False Claims Procedure);
- (xii) 31 U.S.C. 3732 (False Claims Jurisdiction); and
- (xiii) 31 U.S.C. 3733 (Civil Investigative Demands).

(2) For the purposes of the laws listed in paragraph (a)(1) of this section, LSC shall be considered a Federal agency and a recipient's LSC funds shall be considered to be Federal funds provided by grant or contract.

(b) A *violation of the agreement* means:

(1) That the recipient has been convicted of, or judgment has been entered against the recipient for, a violation of

any of the laws listed in paragraph (a)(1) of this section, with respect to its LSC grant or contract, by the court having jurisdiction of the matter, and any appeals of the conviction or judgment have been exhausted or the time for the appeal has expired; or

(2) An employee or board member of the recipient has been convicted of, or judgment has been entered against the employee or board member for, a violation of any of the laws listed in paragraph (a)(1) of this section with respect to a recipient's grant or contract with LSC by the court having jurisdiction of the matter, and any appeals of the conviction or judgment have been exhausted or the time for appeal has expired, and the Corporation finds that the recipient has knowingly or through gross negligence allowed the employee or board member to engage in such activities.

§ 1640.3 Contractual agreement.

As a condition of receiving LSC funds, a recipient must enter into a written contractual agreement with the Corporation that, with respect to its LSC funds, it will be subject to the Federal laws listed in § 1640.2(a)(1). The agreement shall include a statement that all of the recipient's employees and board members have been informed of such Federal law and of the consequences of a violation of such law, both to the recipient and to themselves as individuals.

§ 1640.4 Violation of agreement.

(a) A violation of the agreement under § 1640.2(b)(1) shall result in the recipient's LSC grant or contract being terminated by the Corporation without need for a termination hearing. During the pendency of any appeal of a conviction or judgment, the Corporation may take such steps as it determines necessary to safeguard its funds.

(b) A violation of the agreement under § 1640.2(b)(2) shall result in the recipient's LSC grant or contract being terminated by the Corporation. Prior to such termination, the Corporation shall provide notice and an opportunity to be heard for the sole purpose of determining whether the recipient knowingly or through gross negligence allowed the employee or board member

to engage in the activities which led to the conviction or judgment. During the pendency of any appeal of a conviction or judgment or during the pendency of a hearing, the Corporation may take such steps as it determines necessary to safeguard its funds.

PART 1641—DEBARMENT, SUSPENSION AND REMOVAL OF RECIPIENT AUDITORS

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AUTHORITY: 42 U.S.C. 2996e(g); Pub. L. 105–277.

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Subpart A—General

§ 1641.1 Purpose/Applicability.

In order to assist in ensuring that recipients receive acceptable audits, this part sets out the authority of the Legal Services Corporation (“LSC”) Office of Inspector General (“OIG”) to debar, suspend or remove independent public accountants (“IPAs”) from performing audit services for recipients. This rule informs IPAs of their rights to notice and an opportunity to be heard on actions involving debarment, suspension or removal, and the standards upon which such actions will be taken. This part applies to IPAs performing audit services for recipients, subrecipients or other entities which receive LSC funds and are required to have an audit performed in accordance with guidance promulgated by the OIG.

§ 1641.2 Definitions.

Adequate evidence means information sufficient to support the reasonable belief that a particular act or omission has occurred.

Audit services means the annual financial statement audit of a recipient, including an audit of the recipient’s financial statements, systems of internal control, and compliance with laws and regulations.

Contract means an agreement between a recipient and an IPA for an IPA to provide audit services to the recipient.

Conviction means a judgment or conviction of a criminal offense by any court, whether entered upon a verdict or plea, including but not limited to, pleas of *nolo contendere*.

Debarment means a decision by the debarring official to prohibit an IPA from soliciting or entering into new contracts to perform audit services for recipient(s) based upon a finding by a preponderance of the evidence that any of the causes for debarment set out in § 1641.7 exist. Debarment may cover an IPA’s contracts with all recipients or with one or more specific recipients.

Debarring official is the official responsible for debarment, suspension or removal actions under this part. The OIG legal counsel is the debarring official. In the absence of an OIG legal