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Update and Analysis

LSC OIG Alert Calls for Effective Conflict of Interest Policies

By Jerry Ashworth

The Legal Services Corporation (LSC), Office of Inspector General (OIG) recently issued a fraud alert advisory to its grant recipients encouraging them to develop conflict of interest policies that prohibit related party transactions and protect them from any potential charges of impropriety.

Under the general procurement provisions in the Office of Management and Budget's (OMB's) uniform grant guidance, nonfederal entities must maintain written standards of conduct covering conflicts of interest that govern the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer or agent may participate in the selection, award or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest (§200.318(c)). In addition, nonfederal entities must establish and maintain effective internal control over federal awards that provide reasonable assurance that the entity is managing the award in compliance with federal statutes, regulations and the terms and conditions of the award (§200.303).

The advisory stems from recent OIG investigations in which grant recipient executive directors and fiscal offices have entered into related party transactions with family members, friends and associates, thereby creating conflicts of interest. Such transactions are those in which an employee conducts business with a related party (e.g., immediate family, friend, etc.) that has a financial or material interest. Prior business relationships or former client/employee relationships can also qualify individuals as related parties, the OIG said.

For example, the advisory cited a recent OIG investigation found that an executive director for a subrecipient of LSC funds entered into a secret contract with her husband for janitorial services at an inflated cost. Using a fictitious business name, the subrecipient paid 66 percent more for janitorial services than the local going rate. The executive director issued 48 checks to her husband's fictitious business totaling nearly $47,000.

Along with related party transactions, other types of activities that could create conflicts for employees include acceptance of gifts, holding stock in a company that conducts business with the grant recipient, outside parties paying for employee travel, participating in restricted political activities, and evaluating and awarding contracts, grants or service agreements.

The OIG recommended that LSC recipients include the following provisions in their conflict of interest policies:

- Employees must disclose, in writing, the material facts of any potential conflicts of interest that they may have with the program in any matter, typically

See *LSC Advisory*, p. 2

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to management or the board, in order to determine whether they must recuse themselves from the matter or will be permitted to initiate or continue their involvement with the matter.

- Employees and board members should each receive a copy of the conflict of interest policy and must annually acknowledge receipt of, an understanding of and adherence to the policy. Management also should appropriately train employees about the policy.
- Methods to confidentially report conflicts of interest regarding other employees should be established.
- Policies and procedures, such as a whistleblower protection policy, should be established to prevent retaliation against individuals who make reports in good faith.

LSC provides grants to eligible nonprofit organizations delivering legal aid to low-income people. "Conflicts of interests are undesirable because they potentially place the private interests of others ahead of the nonprofit's obligations to its charitable purposes and public interest," OIG added. "Impact to a grantee by not adopting a conflict of interest policy includes the possibility of losing its tax exempt status and funding, incurring fines, and attracting intense public scrutiny and negative publicity due to the occurrence of fraud."

For More Information

The OIG letter is available at https://oig.lsc.gov/images/pdfs/invest_results/fraud_alert_15-02.pdf. ❖