



## American Bar Association

# Legal Services Corporation FY 2005 Appropriations

### LSC FY 2005 Appropriations

President Bush's FY 2005 budget request submitted to Congress on February 2, 2004 included \$329.3 million for the Legal Services Corporation, an amount intended to represent level funding since FY 2001.

On April 2, 2004, Legal Services Corporation President Helaine Barnett [testified](#) before the House Appropriations Subcommittee on Commerce, Justice, State in support of the Corporation's own budget request of \$352.4 million. This amount represents a four percent increase intended to correlate with the increase in the poverty population in LSC service areas throughout the country; according to the 2000 census, the number of LSC-eligible clients increased by 5.74 percent since 1990.

More than 42 Senators and more than 72 U.S. Representatives wrote the Senate and House Appropriations Subcommittees that fund the Legal Services Corporation in support of the [Corporation's request](#) for a four percent funding increase to \$352.4 million. The bipartisan group of Senators, led by Edward Kennedy (D-MA), Pete Domenici (R-NM) and Gordon Smith (R-OR), [signed](#) the June 17, 2004 letter, while other Senators submitted individual letters. On the House side, 72 Representatives [signed](#) one joint letter submitted on June 4, 2004; the Oregon Congressional Delegation on May 10, 2004 wrote its own letter and many other Representatives sent individual letters.

ABA President Dennis W. Archer wrote the [House](#) and [Senate](#) CJS Appropriations Subcommittees on June 14, 2004 and June 17, 2004, respectively, to recommend that Congress increase the LSC's FY 2005 appropriation to the level necessary to put the Corporation in the same position it was prior to drastic funding cuts in the mid-90s. Citing wide bipartisan support and an overwhelming need, the [ABA recommends](#) that Congress fund LSC at \$396.1 million, but no less than the [Corporation's budget request](#) of \$352.4 million.

On June 15, 2004, the House CJS subcommittee [marked up](#) the FY 2005 appropriations bill. The Subcommittee funded LSC at \$335.3 million. This is the same amount LSC received in FY 2004 after two government-wide rescissions reduced its \$338.8 million appropriation, but still \$6 million over the President's request. The full House Appropriations Committee approved the \$335.3 million amount on June 23, 2004. On July 8, 2004, the House of Representatives passed [H.R. 4754](#), the CJS FY 2005 appropriations bill. H.R. 4754 funds LSC at the amount recommended by the Appropriations Committee, \$335.3 million.

On September 15, 2004, the Senate Appropriations Committee approved its version of the FY 2005 CJS appropriations bill. The Senate bill, [S. 2809](#), provides only \$335 million for LSC. The Senate had not considered the bill when Congress recessed for the 2004 election.

In addition to the funding differences, H.R. 4754 allows LSC to spend up to \$1,000,000 from carry over funds for a law school student loan repayment pilot program in fiscal year 2005. S. 2809 does not include the loan repayment provisions. S. 2809 retains the \$2,849,000 for grants to offset losses due to census adjustments included in the FY 2004 LSC appropriation; H.R. 4754 does not include this provision.

On December 7, 2004, Congress passed H.R. 4818, the Consolidated Appropriations Act 2005. The President signed the bill into law on December 8, 2004, P.L. 108-447. This omnibus law includes the nine (9) appropriations bills not previously passed by Congress, including the Commerce, Justice, State, Judiciary and Related Agencies bills (H.R. 4754 and S. 2809) which provide funding for the Legal Services Corporation (LSC).

Given the budgetary circumstances, we are, however, very pleased to report that H.R. 4818 includes the higher House-recommended amount of \$335,282,000, along with House language allowing LSC to use up to \$1 million in amounts previously appropriated for a student loan repayment pilot program. The Senate language allocating funds to address the loss of funding to some states due to census-based reallocations was also included, but the amount is \$1 million less than originally requested by the Senate. Unlike the Senate bill which reduced funds from basic field programs to pay for the census provision, H.R. 4818 funds the census-based reallocations by reducing the Office of the Inspector General, Corporation management and administration, and client self-help and information technology line items. Specifically, H.R. 4818 retains the House recommended amount of \$316,604,000 for basic field programs; the Senate had recommended a cut in field programs to \$312,251,000 to pay for the census reallocations.

LSC Funding--\$335,282,000

Basic Field Programs/Independent Audits--\$316,604,000

Inspector General/Audits--\$2,573,000

Corporate Management--\$13,000,000

Client Self-Help/Technology--\$1,272,000

Census Reallocations--\$1,833,000

Student Loan Repayment (from previous funds) -- \$1,000,000

While \$335,282,000 is level-funding from FY 2004, H.R. 4818 also includes a .80 percent across-the-board cut for almost all non-defense programs. In addition, the CJS portion of H.R. 4818 includes an additional .54 percent across-the-board cut. The House leadership used these cuts to bring spending in under \$388 billion and to pay for certain other programs within the CJS bill. Unfortunately, these across-the-board cuts will result in a funding cut for LSC of about \$4.5 million, lowering LSC's FY 2005 funding to approximately \$330,700,000.

### Oversight

On March 31, 2004, the House Judiciary Subcommittee on Commercial and Administrative Law held an oversight hearing. LSC Board Chair Frank Strickland and new President Helaine Barnett [testified](#) about the Corporation's efforts to fund and oversee local legal aid programs which provide legal services for the poor.

### LSC Board/Governance

The LSC is governed by an 11-person bipartisan Board of Directors, nominated by the President and confirmed by the Senate. The Senate Committee on Health, Education, Labor and Pensions is responsible for confirming nominees to this Board. The ABA pursuant to longstanding procedures conducts [an evaluation](#) of the nominees' qualifications and commitment to the program and submits its views to the Senate.

At the start of the 108<sup>th</sup> Congress, President Bush on [January 9, 2003](#) forwarded to the Senate for confirmation the names of [six Republican individuals](#) to serve on the 11-member LSC Board: [Robert J. Dieter](#) of Colorado, [Michael McKay](#) of Washington State, [Frank B. Strickland](#) of

Georgia, Lillian R. BeVier, a professor of law at the University of Virginia, [Thomas A. Fuentes](#), of Orange County, California and [Florentino Subia](#) of Texas.

Five of these six individuals had been nominated during the 107<sup>th</sup> Congress. On [April 2, 2003](#), the President formally nominated two Democrats, Herbert S. Garten of Baltimore, Maryland and Thomas P. Meites of Chicago, Illinois, to the LSC Board of Directors, leaving three Directors yet to be named.

On [April 10, 2003](#), the President nominated the ninth board member, Democrat [David B. Hall](#) of Boston, Massachusetts.

On April 11, 2003, the Senate unanimously confirmed six of the nine nominees: Dieter, Garten, McKay, Meites, Strickland, and Subia.

The President announced recess appointments [April 22, 2003](#) for the two other Republican nominees: BeVier and Fuentes. No action was taken on Hall's nomination at this time.

These [eight new board members](#) were sworn in April 25, 2003 in conjunction with a previously scheduled board meeting. Frank Strickland, a Republican member from Georgia, was unanimously elected to serve as the new LSC Board chair. Lillian BeVier was elected vice chair.

On [May 14, 2003](#), the President re-nominated recess appointees BeVier and Fuentes.

On June 27, 2003, the Senate confirmed the nominations of previously appointed board member BeVier and nominee [David Hall](#). The nomination of [Fuentes](#) is still pending.

The White House on [September 23, 2003](#) nominated [Bernice Phillips](#) of New York, to be a Member of the Board replacing Maria Luisa Mercado. The Senate has not acted on her nomination. The White House has not yet submitted a nominee to the Senate to replace Ernestine Watlington.

Holdover LSC Board members Mercado and Watlington, both Democrats, remain on the board pending confirmation of their replacements.

Chairman Strickland on October 6, 2003 named representatives from the ABA and the National Legal Aid and Defender Association to serve as advisory members to the search committee for a new LSC president and inspector general.

The LSC Board on December 18, 2003 named Helaine Barnett as the Corporation's new president. Barnett, Attorney-in Charge of civil legal services for the Legal Aid Society of New York City at the time of her selection, assumed her new position on January 20, 2004. Barnett was an advocate with the Legal Aid Society for 37 years.

The LSC Board on August 17, 2004 [named](#) Richard "Kirt" West as Inspector General. West, most recently Executive Director of the U.S. Postal Service's Inspector General Management Institute. West assumed his position on September 1, 2004.

**Staff Contact: Julie M. Strandlie, Legislative Counsel/Director, Grassroots Operations**  
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