



## **LEGAL SERVICES CORPORATION**

### **45 CFR Part 1630**

#### **Cost Standards and Procedures; Property Acquisition and Management Manual**

**AGENCY:** Legal Services Corporation

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Legal Services Corporation (LSC or the Corporation) is issuing this advance notice of proposed rulemaking (ANPRM) to request comment on the Corporation's considerations for revising 45 CFR part 1630 and the Property Acquisition and Management Manual (PAMM). The Corporation has chosen to address both part 1630 and the PAMM in a single rulemaking due to the level of similarity and overlap between them, particularly with regard to the provisions governing real and personal property acquisition and prior approval procedures. This ANPRM seeks input and recommendations on how to address most effectively those provisions of part 1630 and the PAMM that impact LSC's ability to promote clarity, efficiency, and accountability in its grant-making and grants oversight practices.

**DATES:** Comments must be submitted by [INSERT DATE 60 DAYS AFTER PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments by any of the following methods:

E-mail: [lscrulemaking@lsc.gov](mailto:lscrulemaking@lsc.gov). Include "Part 1630/PAMM Rulemaking" in the subject line of the message.

Fax: (202) 337-6519.

Mail: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007, ATTN: Part 1630/PAMM Rulemaking.

Hand Delivery/Courier: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007, ATTN: Part 1630/PAMM Rulemaking.

Instructions: Electronic submissions are preferred via email with attachments in Acrobat PDF format. Written comments sent via any method not described in this notice or received after the end of the comment period may not be considered by LSC.

**FOR FURTHER INFORMATION CONTACT:** Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW, Washington, DC 20007, (202) 295-1563 (phone), (202) 337-6519 (fax), sdavis@lsc.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Regulatory Background of Part 1630 and the PAMM**

The purpose of 45 CFR part 1630 is “to provide uniform standards for allowability of costs and to provide a comprehensive, fair, timely, and flexible process for the resolution of questioned costs.” 45 CFR 1630.1. LSC last revised Part 1630 in 1997, when it published a final rule intended to “bring the Corporation’s cost standards and procedures into conformance with applicable provisions of the Inspector General Act, the Corporation’s appropriations action, and relevant Office of Management and Budget (OMB) Circulars.” 62 FR 68219, Dec. 31, 1997. Although the OMB Circulars are not binding on LSC because it is not a federal agency, LSC adopted certain provisions from relevant OMB Circulars pertaining to non-profit grants, audits, and cost principles into the final rule for part 1630. Id. at 68219-20 (citing OMB Circulars A-50, A-110, A-122, and A-133).

LSC published the PAMM in 2001 “to provide recipients with a single complete and consolidated set of policies and procedures related to property acquisition, use and disposal.” 66 FR 47688, Sept. 13, 2001. Prior to the PAMM’s issuance, such policies and procedures were “incomplete, outdated and dispersed among several different LSC documents.” Id. The PAMM contains policies and procedures that govern both real and non-expendable personal property, but, with the exception of contract services for capital improvements, the PAMM does not apply to expendable personal property or to contracts for services. Id. at 47695. The PAMM’s policies and procedures were developed with guidance from the Federal Acquisition Regulations, the Federal Property Management Regulations, and OMB Circular A-110. Id. at 47688. The PAMM also incorporates several references to provisions of part 1630 pertaining to costs requiring LSC prior approvals and the proper allocation of derivative income. Id. at 47696-98 (containing references to 45 CFR 1630.5(b)(2-4), 1630.5(c), and 1630.12, respectively).

## **II. Impetus for this Rulemaking**

Part 1630 and the PAMM have not been revised since 1997 and 2001, respectively. Since that time, procurement practices and cost allocation principles applicable to awards of federal funds have changed significantly. For instance, in 2013, OMB revised and consolidated several Circulars into a single Uniform Guidance. 78 FR 78589, Dec. 26, 2013; 2 CFR part 200. OMB consolidated and simplified its guidance to “reduce administrative burden for non-Federal entities receiving Federal awards while reducing the risk of waste, fraud and abuse.” 78 FR 78590, Dec. 26, 2013.

LSC has determined that it should undertake regulatory action at this time for three reasons. The first reason is to account, where appropriate for LSC, for corresponding changes in Federal grants policy. The second reason is to address the difficulties that LSC and its grantees

experience in applying ambiguous provisions of Part 1630 and the PAMM. Finally, LSC believes rulemaking is appropriate at this time to address the limitations that certain provisions of both documents place on the Corporation's ability to ensure clarity, efficiency, and accountability in its grant-making and grants oversight practices.

LSC has identified several aspects of part 1630 and the PAMM that reduce efficiency, create confusion, and fail to ensure accountability in the use of LSC funds. For example, part 1630 and the PAMM both require recipients to seek prior approval for certain purchases of real and non-expendable personal property. 45 CFR 1630.5 (describing costs requiring prior approval), 1630.6 (establishing the timetable and bases for granting prior approval); PAMM sections 3(d), 4(d). LSC has determined that the text of its prior approval provisions does not accurately reflect the intent of its drafters or the current practice of the Corporation and its grantees. Clarifying when recipients must seek prior approval of purchases will align the text of these provisions with current practice and eliminate uncertainty about their application. This revision would also be consistent with LSC's original purpose in issuing the PAMM "to provide recipients with a single complete and consolidated set of policies and procedures related to property acquisition, use and disposal." 66 FR 47688, Sept. 13, 2001.

LSC's Office of Inspector General (OIG) and LSC management have also recommended that the Corporation consider revising 45 CFR 1630.7(b). Section 1630.7(b) provides that LSC shall provide written notice to a grantee of LSC's decision to disallow certain costs if LSC determines that there is a basis to disallow the costs and not more than five years has passed since the grantee incurred the costs. OIG and Management have expressed concern that the lack of specificity regarding the point at which LSC has sufficient basis to disallow costs and to notify a recipient of LSC's intent to disallow costs impedes LSC's ability to recover misspent funds.

In July 2014, the Operations and Regulations Committee (Committee) of LSC's Board of Directors (Board) approved Management's proposed 2014–2015 rulemaking agenda, which included revising part 1630 and the PAMM as a priority item. On July 16, 2015, Management presented the Committee with a Justification Memorandum recommending publication of an ANPRM to seek public comment on possible revisions to Part 1630 and the PAMM. Management stated that collecting input from the regulated community through an ANPRM would significantly aid LSC in determining the scope of this rulemaking and in developing a more accurate understanding of the potential costs and benefits that certain revisions may entail. On July 18, 2015, the LSC Board authorized rulemaking and approved the preparation of an ANPRM to revise Part 1630 and the PAMM.

On October 4, 2015, the Committee voted to publish this ANPRM in the Federal Register for notice and comment.

### **III. Discussion of Revisions under Consideration**

LSC requests comment on the following proposals and specific questions. When submitting responses to specific questions, please refer to each question by number.

#### **A. Revising, Restructuring, and Consolidating Prior Approval Provisions**

To improve organization and clarity, LSC is considering restructuring 45 CFR 1630.5, which currently governs three discrete topics:

- (1) Recipient requests for advance understanding of whether an unusual or special cost is allowable (§ 1630.5(a));
- (2) Costs for which prior approval is necessary (§ 1630.5(b)); and
- (3) The duration of a prior approval or advance understanding (§ 1630.5(c)).

Section 1630.5(b) further lists four types of costs requiring prior approval, three of which apply exclusively to property:

- 1) Pre-award costs and costs incurred after the cessation of funding;
- 2) Purchases and leases of personal, non-expendable property if the purchase price of any individual item exceeds \$10,000;
- 3) Purchases of real property; and
- 4) Capital expenditures exceeding \$10,000 to improve real property.

LSC is considering expressly incorporating into the PAMM all of the procedures and requirements governing prior approval that are related to property. By its own terms, the PAMM represents the consolidation of “all of the relevant policies and requirements related to the acquisition, use and disposal of real and personal property” in a single document. 66 FR 47688, Sept. 13, 2001. In fact, the PAMM merely incorporates some of these policies and requirements by reference and excludes others altogether. For example, 45 CFR 1630.5(b)–(c) are referenced throughout sections 3 and 4 of the PAMM, which govern acquisition procedures for personal and real property. *Id.* at 47696. The PAMM omits 45 CFR 1630.6, which establishes the timetable and basis for granting prior approval. Similarly, while some of the provisions of Program Letter 98-4, which established the processes for requesting prior approval, are incorporated throughout the PAMM, others are distinctly absent. *Id.* at 47689. The omitted provisions include the process for requesting approval of pre-award costs and costs incurred after the cessation of funding, both of which may involve property.

Question 1: How should LSC restructure the provisions discussed above to best provide clarity to its grantees?

Question 2: In addition to the provisions discussed above, are there any additional provisions from other LSC documents related to prior approval that should also be restructured or consolidated?

Management is also considering revising 45 CFR 1630.5(b)(2) and section 3(d) of the PAMM to require prior approval for each transaction in which the aggregate cost of all items of

personal property purchased through the transaction exceeds a specific threshold. Both sections currently require recipients to obtain prior approval only for acquisition of an “individual” item of personal property that has a value exceeding \$10,000. LSC’s Office of Compliance and Enforcement (OCE) and OIG, however, have applied 45 CFR 1630.5(c) and section 3(d) of the PAMM as requiring prior approval for a single acquisition of multiple related items that have an aggregate value exceeding \$10,000. The proposed revision would, therefore, make the rules consistent with LSC and OIG’s practice.

Finally, LSC is considering raising the \$10,000 prior-approval threshold set by 45 CFR 1630.5(b)(2) and section 3(d) of the PAMM. LSC is also considering drafting the rule to allow for adjustment when economic circumstances indicate adjustment is appropriate. LSC adopted the \$10,000 threshold over 20 years ago and did not provide for adjustment due to inflation. As a result, recipients must seek prior approval for purchases considerably smaller than those for which LSC intended to require prior approval at the time it published the PAMM.

Question 3: Are there any potential concerns or problems that could arise from revising the rule to specify that recipients must seek prior approval of single acquisitions of multiple items whose aggregate value exceeds the prior approval threshold?

Question 4: Would the proposed approach generally be consistent with other funders’ requirements for all purchases of nonexpendable personal property costing more than the prior-approval threshold?

Question 5: Should LSC raise the prior approval threshold? If yes, what amount should LSC set as the threshold? Are there any similar prior approval requirements imposed by funders other than the federal government that may help LSC make this determination? Should LSC

automatically adjust the threshold on a scheduled basis to account for inflation, or should LSC consider another mechanism to allow for adjustment on a discretionary or as-needed basis?

B. Clarifying When LSC Provides Notice of its Intent to Disallow Costs

LSC is considering revising 45 CFR 1630.7(b), which currently states that LSC may commence a disallowed cost proceeding only if 1) it has made a determination of “a basis for disallowing a questioned cost,” 2) “not more than five years have elapsed since the recipient incurred the cost,” and 3) the Corporation provides written notice to the recipient “of its intent to disallow the cost. . . . [stating] the amount of the cost and the factual and legal basis for disallowing it.” OIG, Management, and the LSC Board have expressed concern that the lack of clarity regarding the point at which such notice may be provided unnecessarily impedes LSC’s ability to recover misspent funds. LSC currently interprets the phrase “determination of a basis for disallowing a questioned cost” to mean the point at which LSC determines that a recipient has in fact incurred a questioned cost as defined in 45 CFR 1630.2(g).

Based on its experience with questioned-cost proceedings, LSC proposes to revise § 1630.7(b) to state that LSC may issue “written notice . . . of its intent to disallow the cost” at the time LSC has enough evidence to support a reasonable belief that the cost is unallowable. The notice would not necessarily initiate a questioned cost proceeding, but would instead inform the recipient that LSC believes a cost could be questioned and will investigate further. LSC would subsequently notify the recipient whether LSC intends to initiate a questioned cost proceeding.

LSC proposes to revise § 1630.7(b) for four reasons. First, giving notice at the time LSC reasonably believes that it could disallow a cost would allow the recipient to ensure that it retains all records related to the cost in the event that it needs to respond to a notice of questioned costs. Second, notice at an earlier stage of LSC’s investigation would inform a recipient sooner about

problems identified by LSC and encourage the recipient to change its practice giving rise to the questioned cost, which would potentially save the recipient money. Third, changing the rule to provide notice at the time LSC has a reasonable basis for a questioned cost proceeding, rather than at the time LSC initiates the proceeding, would allow LSC to recover misspent funds in cases that require lengthy investigations. The good faith notice that LSC has enough evidence to support a reasonable belief that the cost is unallowable would establish the five-year period for recovery and permit LSC to recover misspent funds if the time for investigation exceeds five years from the date the recipient incurred the cost. The current rule restricts LSC's recovery regardless of how unreasonable or unlawful the questioned cost may be.

Example: A recipient incurred deferred compensation costs for its executive director beginning in February, 2009. LSC had a reasonable basis for questioning the costs in 2014, but it took until February, 2015 for LSC to complete its investigation, which included an on-site visit, requesting and receiving documentation to support the costs from the recipient, and reviewing the documentation provided. If LSC issued notice of its intent to disallow costs associated with the deferred compensation package in February, 2015, LSC could not question incurred between February, 2009 and February, 2010 because those costs would fall outside the five-year period in § 1630.7(b).

Finally, giving notice at an earlier stage in the investigative process would be more consistent with the definition of questioned cost at 45 CFR 1630.2(g). The definition of questioned cost lists three findings that may cause OIG, LSC, the Government Accountability Office (formerly the General Accounting Office), or an independent auditor to question costs: 1) the recipient may have violated a law, regulation, contract, grant, or other agreement governing the use of LSC funds; 2) the cost is not supported by adequate documentation; and 3) the cost appears unreasonable or unnecessary. Two of these findings involve potential, rather than definite, occurrences – a potential violation of law, or the apparent unreasonableness or unnecessary incurring of a given cost. A recipient ultimately may be able to properly document a

cost after adequate time and incentive, and thereby avoid returning funds to LSC. For these reasons, LSC proposes to revise the notice requirement in § 1630.7(b).

Question 6: Are there any other changes LSC should consider when revising § 1630.7(b)? How would the proposed approach affect recipients who are subject to a questioned cost proceeding?

C. Revising the Requirements for Using LSC Funds for Federal Matching Purposes

LSC is considering eliminating the requirement in 45 CFR 1630.3(a)(8) that recipients obtain written consent from a federal agency before using LSC funds to match a grant awarded by that agency. Under this paragraph, recipients may use LSC funds to satisfy the matching requirement of a federally funded program only if “the agency whose funds are being matched determines in writing that Corporation funds may be used for federal matching purposes[.]” 45 CFR 1630.3(a)(8). The preamble to the 1986 final rule for part 1630 describes this section as “a standard federal provision to ensure that [matching funds for federal grants] must be raised from a source other than the federal treasury and taxpayer.” 51 FR 29076, 29077, Aug. 13, 1986. Section 1005 of the Legal Services Corporation Act states that, “[e]xcept as otherwise specifically provided in [the Act],” LSC is not “considered a department, agency, or instrumentality, of the Federal Government.” 42 U.S.C. 2996d(e)(1). Therefore, LSC funds are not “federal funds” for matching purposes, even though they are appropriated by Congress, and they could be used to match a federal grant award.

LSC understands that grantees find the requirement in § 1630.3(a)(8) burdensome because awarding agencies do not normally confirm in writing that the proposed source of a funding applicant’s non-federal match is a permissible source. Even if the agency would allow the match, § 1630.3(a)(8) currently prohibits the match if the agency will not provide written

consent. LSC also believes that the requirement is not necessary to ensure that grantees using LSC funds to match a federal grant continue using those funds consistent with the Corporation's governing statutes and regulations. LSC is considering removing the requirement to obtain written consent and replacing it with an alternative method of conveying the Corporation's position on the use of LSC funds as matching funds. One possible solution would be for LSC to issue a program letter explaining why LSC funds are not federal funds for matching purposes. LSC recipients could then provide that program letter to any awarding agencies that question the non-federal character of LSC funds.

Question 7: Based on the experiences of grantees who have applied to receive awards from federal agencies with matching requirements, would a program letter stating the Corporation's position on the use of LSC funds as matching funds be an effective alternative to the current requirement of obtaining written consent from the awarding agency? Are there any other workable replacements for this requirement that LSC should consider in this rulemaking?

D. Revising the PAMM's Requirements for Disposal of Property

LSC is considering revising sections 6(f) and 7(a) and (d) of the PAMM to require recipients and former recipients to provide notice to and obtain approval from LSC prior to disposing of personal or real property acquired with LSC funds. Section 6(f) requires recipients that cease receiving LSC funding to seek LSC's approval prior to disposing of personal property. Section 6(c) requires recipients to seek LSC's approval to transfer an item of personal property to another nonprofit organization serving the poor in the same service area. See PAMM, section 6(c)(5). In all other instances, a recipient may dispose of personal property purchased in whole or in part with LSC funds without seeking LSC's approval.

Like section 6(f), section 7(c) requires entities that no longer receive LSC funding to seek LSC's approval before disposing of real property purchased in whole or in part with LSC funds. The provisions of the PAMM that do not require approval by LSC are section 7(a), governing the disposal of real property during the term of an LSC grant, and section 7(d), governing the transfer of real property by an entity that ceases to receive LSC funding to a recipient who has merged with or succeeded that entity. LSC's recent agreements governing grantee purchases of real property, however, generally require recipients to give LSC 30 days' notice of a pending sale or to seek LSC's approval of the sale 30 days prior to the completion of the sale. These conditions apply whether the sale occurs during the term of the LSC grant or after a grantee ceases to receive funding.

Under the Uniform Guidance, a recipient of Federal funds must request disposition instructions from the funding agency any time it wants to dispose of real property, equipment, or intangible property purchased with the agency's funds. See 2 CFR 200.311(c) (real property), 200.313(e) (equipment), and 200.315(a) (intangible property). In contrast, LSC requires a recipient to seek LSC's approval to dispose of real property or personal property only when the recipient ceases to receive LSC funding. Unlike the Uniform Guidance, the PAMM allows a recipient to choose the method of disposition and seek LSC's approval of that method.

Question 8: Would revising the provisions discussed above to require notice and approval by the Corporation prior to any disposal of personal or real property create or remove problems for grantees? Should any provision governing a particular type of property disposal have its own unique requirements or exceptions?

Question 9: How would it affect recipients if LSC revised the disposal provisions of the PAMM to require grantees to seek disposition instructions from LSC?

Question 10: What is an appropriate length of time for recipients to provide LSC with written notice prior to disposing of real property?

LSC is also considering revising sections 6(f) and 7(c) of the PAMM. Pursuant to those sections, when an entity that owns personal or real property acquired with LSC funds ceases to receive funding from LSC, it may: (1) transfer the property to another LSC recipient; (2) retain the property and pay LSC that percentage of the fair market value of the property that represents the percentage of the acquisition cost attributable to LSC funds; or (3) sell the real property and compensate LSC as described in (2), minus actual and reasonable selling and fix-up expenses. In the case of personal property, section 6(f) permits a recipient to transfer the property to another nonprofit organization serving the poor in the same service area and pay LSC that percentage of the property's current fair market value that is equal to that percentage of the acquisition cost attributable to LSC funds. Although these provisions are consistent with the Uniform Guidance, LSC requests comments from grantees and others about whether it is appropriate for LSC to seek compensation.

Question 11: Should LSC continue to require former recipients to compensate LSC when the recipients dispose of personal or real property purchased with LSC funds? If so, what are some of the problems facing grantees with regard to the current requirements? How could LSC effectively address such problems in a way that is consistent with the goal of ensuring efficiency and accountability in grant-making and grants oversight practices?

E. Revising Definitions in the PAMM for Clarity and Consistency with Current Practices

LSC is considering revising the PAMM's definitions of "acquisition costs for real property" and "capital improvement," which are incomplete and produce inconsistencies throughout the PAMM. Section 2(a) of the PAMM defines "acquisition costs for real property"

as “the initial down payment and principle [sic] and interest on debt secured to finance the acquisition of the property . . . .” Section 2(c) of the PAMM defines “capital improvement” as “an expenditure of an amount of LSC funds exceeding \$10,000 to improve real property through construction or the purchase of immovable items which become an integral part of real property.” The fact that the definitions of neither “acquisition costs for real property” nor “capital improvement” expressly cover renovations causes several problematic inconsistencies. For example, section 4(c) of the PAMM requires “an analysis of the average annual cost of the acquisition, including the costs of a down payment, interest and principal payments on debt acquired to finance the acquisition, closing costs, renovation costs, and the costs of utilities, maintenance, and taxes, where applicable.” Section (d)(7)(i) of the PAMM similarly requires recipients to estimate the “total cost of the acquisition, including renovations, moving, and closing costs” when seeking prior approval to purchase real property. As a result, a renovation cost in excess of \$10,000 may be considered as an acquisition cost, despite also constituting a “capital improvement.” Section 7(f) of the PAMM further requires that recipients follow separate procedures when using LSC funds to make “capital improvements.”

Question 12: How should LSC revise the definitions of “acquisition costs for real property” and “capital improvements” in order to address the inconsistencies described in the above proposal? Should the definitions differentiate between renovations done as part of the acquisition process and renovations done on real property already owned by the grantee?

LSC is also considering revising the PAMM’s definition of “personal property” to clarify that it includes data, software, and other types of intellectual property. Just as federal procurement practices have changed substantially since the PAMM’s publication in 2001, there have also been significant developments in intellectual property and the methods by which both

private and public organizations incorporate it into their grant-making and procurement processes. The definition of “personal property” in section 2(f) of the PAMM currently includes both “tangible” and “intangible” property, with the specific examples of “copyrights or patents” listed under the latter. However, the definition does not expressly include “intellectual property” as a category of intangible property, nor does it include items such as data and software that are often considered to be intellectual and/or personal property. The only other provision of the PAMM governing a type of intellectual property is section 5(g), which provides that recipients may copyright work that is obtained or developed with LSC funds as long as the Corporation “reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use” such copyrighted work.

Question 13: Should LSC revise the PAMM’s definition of “personal property” to include intellectual property? Should LSC create a new provision that governs exclusively rights in intellectual property created using LSC grant funding? Should general rights in data produced under LSC grants be addressed separately from any new provisions governing the acquisition of intellectual property?

Question 14: Do other funders impose rights-in-data requirements that LSC should be aware of when revising the PAMM, such as the retention of a royalty-free, nonexclusive license to reproduce, publish, or otherwise use products developed by the recipient using those funds? If so, what are those requirements?

F. Revising Procedures and Requirements for Procurements; Including Procurements of Services Within the Scope of Part 1630 and the PAMM

LSC is considering revising the procedures and requirements applicable to grantee procurements paid for in whole or in part with LSC funds. Unlike the Uniform Guidance and its relevant predecessors, OMB Circulars A-87 and A-122, neither part 1630 nor the PAMM

describes the minimum standards that LSC recipients' procurement policies should have. Program Letter 98-4, which established the procedures that recipients must use to seek prior approval of certain leases and procurements of personal and real property, requires a recipient to give LSC minimal information about the process by which the recipient selected a contractor, including whether the recipient solicited bids or awarded a contract on a sole source basis. The annual grant assurances applicable to Basic Field Grant awards do not require recipients to certify that they have procurement policies that meet prescribed minimum standards. By contrast, recipients of Technology Initiative Grant (TIG) awards must comply with the procurement requirements set forth in the annual grant assurances applicable to the TIG program. As a result, recipients of special grants from LSC are subject to more robust procurement requirements than recipients of only Basic Field Grants are. LSC believes that revising part 1630 and the PAMM to incorporate minimum standards for recipient procurement policies is necessary to ensure that recipients have adequate procurement policies and that all LSC-funded grant programs are subject to the same requirements.

Question 15: Should LSC model its revised procurement standards on the standards contained in the Uniform Guidance? What standards do other funders require recipients' procurement policies to meet?

LSC is also considering including contracts for services within the scope of part 1630 and the PAMM. Neither part 1630 nor the PAMM currently requires prior approval or specific procurement procedures for services contracts, either alone or accompanying a purchase of personal property. For example, contracts with information technology providers often include both equipment (personal property) and services. Recipients currently may separate services from personal property in order to demonstrate that the cost of the personal property falls below

the PAMM's threshold for prior approval, even if the total contract cost, including services, exceeds the threshold. Recipients may also enter into contracts for services costing significant amounts of LSC funds, even though there is no requirement that LSC approve the recipient's selection of a contractor and formation of the contract. By contrast, TIG recipients must follow procurement procedures, but not obtain prior approval, for all procurements of any kind over \$5,000.

Question 16: What procedures and requirements should LSC adopt to govern services contracts? How can LSC incorporate such procedures and requirements in a way that promotes clarity, efficiency, and accountability, while also minimizing any potential burden to grantees?

G. Adopting the PAMM as a Codified Rule

LSC is considering codifying the PAMM into a rule published in the Code of Federal Regulations. Although the PAMM technically is not a rule, it has several characteristics in common with legislative rules. For example, the PAMM was adopted after notice and an opportunity for public comment. LSC also assesses recipients' compliance with the provisions of the PAMM. Management believes that the codification of the PAMM may further promote and preserve the effectiveness and consistency of LSC's property acquisition, use, and disposal policies and procedures.

Question 17: Would codification of the PAMM as a rule create potential burdens to grantees or otherwise unduly disrupt grantees' current property acquisition and management practices?

H. Other Questions

Question 18: Are there any significant conflicts between the Corporation's requirements in Part 1630 and the PAMM and rules implemented by other public and private funders? If so, what steps should LSC take to address such conflicts, whether through rulemaking or otherwise?

Question 19: Are there any aspects of Part 1630 and the PAMM not identified in this ANPRM that the Corporation should address in this rulemaking?

Dated: October 5, 2015.

Stefanie K. Davis,

Assistant General Counsel.

7050-01

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