

## § 1630.1

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### Subpart A—General Provisions

#### § 1630.1 Purpose.

This part is intended to provide uniform standards for allowability of costs and to provide a comprehensive, fair, timely, and flexible process for the resolution of questioned costs.

#### § 1630.2 Definitions.

As used in this part:

(a) *Corrective action* means action taken by a recipient that:

- (1) Corrects identified deficiencies;
- (2) Produces recommended improvements; or
- (3) Demonstrates that audit or other findings are either invalid or do not warrant recipient action.

(b) *Derivative income* means income earned by a recipient from LSC-supported activities during the term of an LSC grant or contract, and includes, but is not limited to, income from fees for services (including attorney fee awards and reimbursed costs), sales and rentals of real or personal property, and interest earned on LSC grant or contract advances.

(c) *Disallowed cost* means those charges to an LSC award that LSC determines to be unallowable, in accordance with the applicable statutes, regulations, or terms and conditions of the grant award.

(d) *Final written decision* means either:

- (1) The decision issued by the Vice President for Grants Management after reviewing all information provided by a recipient in response to a notice of questioned costs; or

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(2) The notice of questioned costs if a recipient does not respond to the notice within 30 days of receipt.

(e) *Membership fees or dues* means payments to an organization on behalf of a program or individual to be a member thereof, or to acquire voting or participatory rights therein. *Membership fees or dues* include, but are not limited to, fees or dues paid to a state supreme court or to a bar organization acting as an administrative arm of the court or in some other governmental capacity if such fees or dues are required for an attorney to practice law in that jurisdiction.

(f) *Questioned cost* means a cost that LSC has questioned because of an audit or other finding that:

(1) There may have been a violation of a provision of a law, regulation, contract, grant, or other agreement or document governing the use of LSC funds;

(2) The cost is not supported by adequate documentation; or

(3) The cost incurred appears unnecessary or unreasonable and does not reflect the actions a prudent person would take in the circumstances.

(g) *Real estate* means land and buildings (including capital improvements), excluding moveable personal property.

(h) *Single purchase, single lease, and single contract* mean a single order or lease of goods or a single contract for services from a single vendor.

#### § 1630.3 Time.

(a) *Computation*. In computing any period of time under this part, the time period begins the day following the event and includes the last day of the period, unless the last day is a Saturday, Sunday, or legal holiday observed by the Federal government. In those cases, the time period includes the next business day. When the prescribed time period is seven days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

(b) *Extensions*. A recipient may, within the applicable timeframe for a particular response under this part, submit a written request for an extension of time for good cause to LSC. LSC will respond to the request for extension within seven calendar days from the

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date of receiving the request. LSC may grant the request for extension and shall notify the recipient of its decision in writing.

### § 1630.4 Burden of proof.

The recipient shall have the burden of proof under this part.

### Subpart B—Cost Standards and Prior Approval

#### § 1630.5 Standards governing allowability of costs under LSC grants or contracts.

(a) *General criteria.* Expenditures are allowable under an LSC grant or contract only if the recipient can demonstrate that the cost was:

(1) Actually incurred in the performance of the grant or contract and the recipient was liable for payment;

(2) Reasonable and necessary for the performance of the grant or contract as approved by LSC;

(3) Allocable to the grant or contract;

(4) In compliance with the Act, applicable appropriations law, LSC rules, regulations, guidelines, and instructions, the Accounting Guide for LSC Recipients, the terms and conditions of the grant or contract, and other applicable law;

(5) Consistent with accounting policies and procedures that apply uniformly to both LSC-funded and non-LSC-funded activities;

(6) Accorded consistent treatment over time;

(7) Determined in accordance with generally accepted accounting principles; and

(8) Adequately and contemporaneously documented in business records accessible during normal business hours to LSC management, the Office of Inspector General, the General Accounting Office, and independent auditors or other audit organizations authorized to conduct audits of recipients.

(b) *Reasonable costs.* A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the same or similar circumstances prevailing at the time the decision was made to incur the cost. In determining

the reasonableness of a given cost, consideration shall be given to:

(1) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the recipient or the performance of the grant or contract;

(2) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms-length bargaining, Federal and State laws and regulations, and the terms and conditions of the grant or contract;

(3) Whether the recipient acted with prudence under the circumstances, considering its responsibilities to its clients and employees, the public at large, the Corporation, and the Federal government; and

(4) Significant deviations from the recipient's established practices, which may unjustifiably increase the grant or contract costs.

(c) *Allocable costs.* (1) A cost is allocable to a particular cost objective, such as a grant, project, service, or other activity, in accordance with the relative benefits received. Costs may be allocated to LSC funds either as direct or indirect costs according to the provisions of this section.

(2) A cost is allocable to an LSC grant or contract if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

(i) Is incurred specifically for the grant or contract;

(ii) Benefits both the grant or contract and other work and can be distributed in reasonable proportion to the benefits received; or

(iii) Is necessary to the recipient's overall operation, although a direct relationship to any particular cost objective cannot be shown.

(3) Recipients must maintain accounting systems sufficient to demonstrate the proper allocation of costs to each of their funding sources.

(d) *Direct costs.* Direct costs are those that can be identified specifically with a particular grant award, project, service, or other direct activity of an organization. Costs identified specifically with grant awards are direct costs of the awards and are to be assigned directly thereto. Direct costs include,