

Legal Services Corporation

§ 1630.6

readily identified with a particular final cost objective. A recipient may treat any direct cost of a minor amount as an indirect cost for reasons of practicality where the accounting treatment for such cost is consistently applied to all final cost objectives. Indirect costs include, but are not limited to, the costs of operating and maintaining facilities, and the costs of general program administration, such as the salaries and wages of program staff whose time is not directly attributable to a particular grant or contract. Such staff may include, but are not limited to, executive officers and personnel, accounting, secretarial and clerical staff.

(f) *Allocation of indirect costs.* Where a recipient has only one major function, *i.e.*, the delivery of legal services to low-income clients, allocation of indirect costs may be by a simplified allocation method, whereby total allowable indirect costs (net of applicable credits) are divided by an equitable distribution base and distributed to individual grant awards accordingly. The distribution base may be total direct costs, direct salaries and wages, attorney hours, numbers of cases, numbers of employees, or another base which results in an equitable distribution of indirect costs among funding sources.

(g) *Exception for certain indirect costs.* Some funding sources may refuse to allow the allocation of certain indirect costs to an award. In such instances, a recipient may allocate a proportional share of another funding source's share of an indirect cost to LSC funds, provided that the activity associated with the indirect cost is permissible under the LSC Act, LSC appropriations statutes, and regulations.

(h) *Applicable credits.* Applicable credits are those receipts or reductions of expenditures which operate to offset or reduce expense items that are allocable to grant awards as direct or indirect costs. Applicable credits include, but are not limited to, purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayments or erroneous charges. To the extent that such credits relate to allowable costs, they shall be credited as a cost reduc-

tion or cash refund in the same fund to which the related costs are charged.

(i) *Fundraising.* Costs associated with fundraising for the purpose of increasing recipient funds available to carry out the purposes of the LSC grant are allowable and allocable to the LSC grant if they meet the requirements of this section.

(j) *Guidance.* The regulations of the Office of Management and Budget shall provide guidance for all allowable cost questions arising under this part when relevant policies or criteria therein are not inconsistent with the provisions of the Act, applicable appropriations law, this part, the Accounting Guide for LSC Recipients, LSC rules, regulations, guidelines, instructions, and other applicable law.

§ 1630.6 Prior approval.

(a) *Advance understandings.* Under any given grant award, the reasonableness and allocability of certain cost items may be difficult to determine. To avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, a recipient may seek a written understanding from LSC in advance of incurring special or unusual costs. If a recipient elects not to seek an advance understanding from LSC, the absence of an advance understanding on any element of a cost will not affect the reasonableness or allocability of the cost.

(b) *Costs requiring prior approval.* (1) Without LSC's prior written approval, a recipient may not expend \$25,000 or more of LSC funds on any of the following:

(i) A single purchase or single lease of personal property;

(ii) A single contract for services;

(iii) A single combined purchase or lease of personal property and contract for services; and

(iv) Capital improvements.

(2) Without LSC's prior written approval, a recipient may not expend LSC funds on a purchase of real estate.

(3) For costs apportioned between LSC funds and one or more other funding sources, this requirement applies when the cost allocable to LSC funds is \$25,000 or greater.

§ 1630.7

45 CFR Ch. XVI (10–1–23 Edition)

(4) The process and substantive requirements for requests for prior approval are in 45 CFR part 1631—Purchasing and Property Management.

(c) *Duration.* LSC's advance understanding or approval shall be valid for one year, or for a greater period of time which LSC may specify in its approval or advance understanding.

[82 FR 37337, Aug. 10, 2017; 82 FR 55053, Nov. 20, 2017]

§ 1630.7 Membership fees or dues.

(a) LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, whether on behalf of the recipient or an individual.

(b) Paragraph (a) of this section does not apply to the payment of membership fees or dues mandated by a governmental organization to engage in a profession, or to the payment of membership fees or dues from non-LSC funds.

§ 1630.8 Contributions.

Any contributions or gifts of LSC funds to another organization or to an individual are prohibited.

§ 1630.9 Tax-sheltered annuities, retirement accounts, and penalties.

No provision contained in this part shall be construed to affect any payment by a recipient on behalf of its employees for the purpose of contributing to or funding a tax-sheltered annuity, retirement account, or pension fund.

§ 1630.10 Recipient policies, procedures, and recordkeeping.

Each recipient must adopt written policies and procedures to guide its staff in complying with this subpart and must maintain records sufficient to document the recipient's compliance with this subpart.

Subpart C—Questioned Cost Proceedings

§ 1630.11 Review of questioned costs.

(a) LSC may identify questioned costs:

(1) When the Office of Inspector General, the General Accounting Office, or an independent auditor or other audit organization authorized to conduct an

audit of a recipient has identified and referred a questioned cost to LSC;

(2) In the course of its oversight of recipients; or

(3) As a result of complaints filed with LSC.

(b) If LSC determines that there is a basis for disallowing a questioned cost, LSC must provide the recipient with written notice of its intent to disallow the cost. The notice of questioned costs must state the amount of the cost and the factual and legal basis for disallowing it.

(c) If a questioned cost is disallowed solely because it is excessive, only the amount that is larger than reasonable shall be disallowed.

(d)(1) Within 30 days of receiving the notice of questioned costs, the recipient may respond with written evidence and argument to show that the cost was allowable, or that LSC, for equitable, practical, or other reasons, should not recover all or part of the amount, or that the recovery should be made in installments.

(2) The written notice shall become LSC's final written decision unless:

(i) The recipient responds to LSC's written notice within 30 days;

(ii) The recipient requests an extension of time pursuant to § 1630.3(b) within 30 days; or

(iii) LSC grants an extension of time pursuant to § 1630.3(b) within 30 days.

(e) Within 60 days of receiving the recipient's written response to the notice of questioned costs, LSC management must issue a final written decision stating whether the cost has been disallowed and the reasons for the decision.

(f) If LSC has determined that the questioned cost should be disallowed, the final written decision must:

(1) State that the recipient may appeal the decision as provided in § 1630.12 and describe the process for seeking an appeal;

(2) Describe how it expects the recipient to repay the cost, including the method and schedule for collection of the amount of the cost;

(3) State whether LSC is requiring the recipient to make financial adjustments or take other corrective action