

Legal Services Corporation

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(4) Where the current fair market value of the personal property exceeds \$15,000, advertising the property for 14 days and selling the property after receiving reasonable offers. If the recipient receives no reasonable offers after advertising the property for 14 days, it may sell the property at a reasonable negotiated price;

(5) Transferring the property to another recipient of LSC funds; or

(6) With the approval of LSC, transferring the personal property to another nonprofit organization serving the poor in the same service area.

(b) *Disposal when no longer a recipient.* When a recipient stops receiving LSC funds, it must obtain LSC's approval to dispose of personal property purchased with LSC funds in one of the following ways:

(1) Transferring the property to another recipient of LSC funds, in which case the former recipient will be entitled to compensation in the amount of the percentage of the property's current fair market value that is equal to the percentage of the property's purchase cost borne by non-LSC funds;

(2) Transferring the property to another nonprofit organization serving the poor in the same service area, in which case LSC will be entitled to compensation from the recipient for the percentage of the property's current fair market value that is equal to the percentage of the property's purchase cost borne by LSC funds;

(3) Selling the property and retaining the proceeds from the sale after compensating LSC for the percentage of the property's current fair market value that is equal to the percentage of the property's purchase cost borne by LSC funds; or

(4) Retaining the property, in which case LSC will be entitled to compensation from the recipient for the percentage of the property's current fair market value that is equal to that percentage of the property's purchase cost borne by LSC funds.

(c) *Disposal upon merger with or succession by another LSC recipient.* When a recipient stops receiving LSC funds because it merged with or is succeeded by another grantee, the recipient may transfer the property to the new recipient, if the two entities execute an LSC-

approved successor in interest agreement that requires the new recipient to use the property primarily to provide legal services to eligible clients under the requirements of the LSC Act, applicable appropriations acts, and LSC regulations.

(d) *Prohibition.* A recipient may not dispose of personal property by sale, donation, or other transfer of the property to its board members or employees.

§ 1631.13 Use of derivative income from sale of personal property purchased with LSC funds.

(a) During the term of an LSC grant or contract, a recipient may retain and use income from any sale of personal property purchased with LSC funds according to 45 CFR 1630.17 (Cost Standards and Procedures: Applicability to derivative income) and 45 CFR 1628.3 (Recipient Fund Balances: Policy).

(b) The recipient must account for income earned from the sale, rent, or lease of personal property purchased with LSC funds according to the requirements of 45 CFR 1630.17.

Subpart D—Real Estate Acquisition and Capital Improvements

§ 1631.14 Purchasing real estate with LSC funds.

(a) *Pre-purchase planning requirements.* (1) Before purchasing real estate with LSC funds, a recipient must conduct an informal market survey and evaluate at least three potential equivalent properties.

(2) When a recipient evaluates potential properties, it must consider:

(i) The average annual cost of the purchase, including the costs of a down payment, interest and principal payments on a mortgage financing the purchase; closing costs; renovation costs; and the costs of utilities, maintenance, and taxes, if any;

(ii) The estimated total costs of buying and using the property throughout the mortgage term compared to the estimated total costs of leasing and using a similar property over the same period of time;

(iii) The property's quality; and

(iv) Whether the property is conducive to delivering legal services (e.g.

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property is accessible to the client population (ADA compliant) and near public transportation, courts, and other government or social services agencies).

(3) If a recipient cannot evaluate three potential properties, it must be able to explain why such evaluation was not possible.

(b) *Prior approval.* Before a recipient may purchase real estate with LSC funds, LSC must approve the purchase as required by 45 CFR 1630.6 and 1631.3. The request for approval must be in writing and include:

(1) A statement of need, including:

(i) The information obtained and considered in paragraph (a) of this section;

(ii) Trends in funding and program staffing levels in relation to space needs;

(iii) Why the recipient needs to purchase real estate; and

(iv) Why purchasing real estate is reasonable and necessary to performing the LSC grant.

(2) A brief analysis comparing:

(i) The estimated average annual cost of the purchase including the costs of a down payment, interest and principal payments on a mortgage financing the purchase; closing costs; renovation costs; and the costs of utilities, maintenance, and taxes, if any; and

(ii) The estimated average annual cost of leasing or purchasing similar property over the same period of time;

(3) Anticipated financing of the purchase, including:

(i) The estimated total acquisition costs, including capital improvements, taxes, recordation fees, maintenance costs, insurance costs, and closing costs;

(ii) The anticipated breakdown of LSC funds and non-LSC funds to be applied toward the total costs of the purchase;

(iii) The monthly amount of principal and interest payments on debt secured to finance the purchase, if any;

(4) A current, independent appraisal sufficient to secure a mortgage;

(5) A comparison of available loan terms considered by the recipient before selecting the chosen financing method;

(6) Board approval of the purchase in either a board resolution or board min-

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utes, including Board approvals that are contingent on LSC's approval;

(7) Whether the property will replace or supplement existing program offices;

(8) A statement that the property

(i) Currently complies with the Americans with Disabilities Act (ADA) or applicable state law, whichever is stricter, and 45 CFR 1624.5; or

(ii) Will comply with the ADA, any applicable state law, and 45 CFR 1624.5 upon completion of any necessary capital improvements. Such improvements must be completed within 60 days of the date of purchase; and

(9) A copy of a purchase agreement, contract, or other document containing a description of the property and the terms of the purchase.

(c) *Property interest agreement.* Once LSC approves the purchase, the recipient must enter a written property interest agreement with LSC. The agreement must include:

(1) The recipient's agreement to use the property consistent with § 1631.15;

(2) The recipient's agreement to record, under appropriate state law, LSC's interest in the property;

(3) The recipient's agreement not to encumber the property without prior LSC approval; and

(4) The recipient's agreement not to dispose of the property without prior LSC approval.

§ 1631.15 Capital improvements.

(a) As required by 45 CFR 1630.6 and 1631.3, a recipient must obtain LSC's prior written approval before using more than \$25,000 LSC funds to make capital improvements to real estate.

(b) The written request must include:

(1) A statement of need;

(2) A brief description of the nature of the work to be done, the name of the sources performing the work, and the total expected cost of the improvement; and

(3) Documentation showing that the recipient followed its procurement policies and procedures in competing, selecting, and awarding contracts to perform the work.

(c) A recipient must maintain supporting documentation to accurately identify and account for any use of

LSC funds to make capital improvements to real estate owned by the recipient.

Subpart E—Real Estate Management

§ 1631.16 Using real estate purchased with LSC funds.

(a) Recipients must use real estate purchased or leased in whole or in part with LSC funds to deliver legal assistance to eligible clients consistent with the requirements of the LSC Act, applicable appropriations acts, other applicable Federal law, and LSC's regulations. If a recipient does not need to use some or all such real estate to deliver legal assistance to eligible clients, it may use the space for other activities as described in paragraphs (b) and (c) of this section.

(b) A recipient may use real estate purchased or leased, in whole or part, with LSC funds for the performance of an LSC grant or contract for other activities, if they do not interfere with the performance of the LSC grant or contract.

(c) If a recipient uses real estate purchased or leased, in whole or part, with LSC funds to provide space to an organization that engages in activity restricted by the LSC Act, applicable appropriations acts, LSC regulations, or other applicable law, the recipient must charge the organization rent no less than that which private nonprofit organizations in the same area charge for the same amount of space under similar conditions.

§ 1631.17 Maintenance.

A recipient must maintain real estate acquired with LSC funds:

(a) In an efficient operating condition; and

(b) In compliance with state and local government property standards and building codes.

§ 1631.18 Insurance.

At the time of purchase, a recipient must obtain insurance coverage for real estate purchased with LSC funds which is not lower in value than coverage it has obtained for other real estate it owns and which provides at least the following coverage:

(a) Title insurance that:

(1) Insures the fee interest in the property for an amount not less than the full appraised value as approved by LSC, or the amount of the purchase price, whichever is greater; and

(2) Contains an endorsement identifying LSC as a loss payee to be reimbursed if the title fails.

(3) If no endorsement naming LSC as loss payee is made, the recipient must pay LSC the title insurance proceeds it receives in the event of a failure.

(b) A physical destruction insurance policy, including flood insurance where appropriate, which insures the full replacement value of the facility from risk of partial and total physical destructions. The recipient must maintain this policy for the period of time that the recipient owns the real estate.

§ 1631.19 Accounting and reporting to LSC.

A recipient must maintain an accounting of the amount of LSC funds relating to the purchase or maintenance of real estate purchased with LSC funds. The accounting must include the amount of LSC funds used to pay for acquisition costs, financing, and capital improvements. The recipient must provide the accounting for each year to LSC no later than April 30 of the following year or in its annual audited financial statements submitted to LSC.

§ 1631.20 Disposing of real estate purchased with LSC funds.

(a) *Disposal by LSC recipients.* During the term of an LSC grant or contract, a recipient must seek LSC's prior written approval to dispose of real estate purchased with LSC funds by:

(1) Selling the property after having advertised for and received offers; or

(2) Transferring the property to another recipient of LSC funds, in which case the recipient may be compensated by the recipient receiving the property for the percentage of the property's current fair market value that is equal to the percentage of the costs of the original acquisition and costs of any capital improvements borne by non-LSC funds.

(b) *Disposal after a recipient no longer receives LSC funding.* When a recipient