

the Franklin-Banks County line, Carnesville vicinity, 96001298

Walnut Hill Historic District (Old Federal Road in Georgia's Banks and Franklin Counties MPS), GA 51, approximately 1 mi. NW of jct. with I-85, Carnesville vicinity, 96001296

Illinois

Adams County

Fall Creek Stone Arch Bridge, 1.2 mi. NE of Fall Cr.—Payson Rd., across Fall Cr., Payson vicinity, 96001282

Cook County

Promontory Apartments, 5530–5532 South Shore Dr., Chicago, 96001281

Fulton County

Chipman, Edith, House (Vermont, Illinois MPS), 201 W. 3rd St., Vermont, 96001290

Durell, William Franklin and Rebecca, House (Vermont, Illinois MPS), 408 W. 5th St., Vermont, 96001292

Hamer, Edward, House (Vermont, Illinois MPS), 200 W. 2nd St., Vermont, 96001293

Hamer, Patterson, House (Vermont, Illinois MPS), 405 W. 5th St., Vermont, 96001287

Hoopes, William, House (Vermont, Illinois MPS), 204 N. Liberty St., Vermont, 96001285

Hunter, Lucinda, House (Vermont, Illinois MPS), 101 E. 8th St., Vermont, 96001286

McCormick, Charles Emmor, House (Vermont, Illinois MPS), 712 W. 3rd St., Vermont, 96001284

Mershon, Joab, House (Vermont, Illinois MPS), 507 W. 5th St., Vermont, 96001294

O'Connell, Daniel, House (Vermont, Illinois MPS), 115 N. Union St., Vermont, 96001288

Page, Henry H., House (Vermont, Illinois MPS), 221 N. Union St., Vermont, 96001289

Ross, Harvey Lee, House (Vermont, Illinois MPS), 602 S. Main St., Vermont, 96001295

Snowden, Elsworth, House (Vermont, Illinois MPS), 504 W. 3rd St., Vermont, 96001283

Stapleford-Hover-Whitney House (Vermont, Illinois MPS), 401 N. Main St., Vermont, 96001291

Whiteside County

Sterling Masonic Temple, 111–113 W. 3rd St., Sterling, 96001279

Minnesota

Beltrami County

Buena Vista Archeological Historic District, Address Restricted, Puposky vicinity, 96001311

Goodhue County

Spring Creek Petroglyphs (American Indian Rock Art in Minnesota MPS), Address Restricted, Red Wing vicinity, 96001310

Houston County

Yucatan Fort Site (Precontact American Indian Earthworks MPS), Address Restricted, Yucatan vicinity, 96001308

Traverse County

Shady Dell Site (Precontact American Indian Earthworks), Address Restricted, Beardsley vicinity, 96001309

Mississippi

Alcorn County

Rienzi Commercial Historic District, Jct. of Front and Main Sts., Rienzi, 96001312

Hinds County

Holly Grove Plantation House, 1056 Old Bridgeport Rd., Bolton vicinity, 96001313

Pennsylvania

Lancaster County

Reyer, Peter and Catherine, Farmhouse (Historic Farming Resources of Lancaster County MPS), Trout Run Rd., W of jct. with PA 272, Ephrata, 96001314

Rhode Island

Washington County

Cottrell House (Single-Family Houses in Rhode Island MPS), 500 Waites Corner Rd., South Kingstown, 96001319

Gardner, R. R., House (Single-Family Houses in Rhode Island MPS), 700 Curtis Corner Rd., South Kingstown, 96001320

Red House (Single-Family Houses in Rhode Island MPS), 2403 Post Rd., South Kingstown, 96001323

Westerly Armory, Railroad Ave., W of downtown Westerly, Westerly, 96001322

Willow Dell (Single-Family Houses in Rhode Island MPS), 2700 Cmdr. Oliver Hazard Perry Hwy., South Kingstown, 96001321

Tennessee

Carter County

Butler House, 206 Main St., Hampton, 96001315

[FR Doc. 96–27039 Filed 10–21–96; 8:45 am]

BILLING CODE 4310–70–P

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree with Defendant Spitzer Great Lakes, Ltd. (“Spitzer”) in *United States v. Cleveland Asbestos Abatement, et al.*, Case No. 1:93CV1317, was lodged on September 30, 1996 with the United States District Court for the Northern District of Ohio. The proposed consent decree settles claims against Spitzer pursuant to the Clean Air Act for violation of the asbestos NESHAP, 40 CFR Part 61, Subpart M, in the course of asbestos removal activities at a building owned by Spitzer. The decree requires Spitzer to pay a civil penalty of \$5,000, to comply with the asbestos NESHAP in the future, and to implement a compliance program including inspection and sampling for asbestos containing materials, employee training, and detailed recordkeeping requirements.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Cleveland Asbestos Abatement, Inc., et al.*, Case No. 1:93CV1317, and the Department of Justice Reference No. 90–5–2–1–1825.

The proposed consent decree may be examined at the Office of the United States Attorney, Northern District of Ohio, 1800 Bank One Center, 600 Superior Ave., Cleveland, Ohio 44114; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$4.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce M. Gelber,

*Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 96–27012 Filed 10–21–96; 8:45 am]

BILLING CODE 4410–01–M

## LEGAL SERVICES CORPORATION

### Audit Guide for LSC Recipients and Auditors

**AGENCY:** Legal Services Corporation.

**ACTION:** Proposed Revisions to the LSC Audit Guide for Recipients and Auditors.

**SUMMARY:** The Legal Services Corporation (LSC) hereby publishes as final the revisions to the November 1995 LSC Audit Guide for Recipients and Auditors. The revisions incorporate the audit requirements and additional provisions imposed by Congress through 110 Stat. 1321 (1996). There are seven appendices to the revised Audit Guide, which in themselves establish no new rules, regulations or guidelines for recipients and auditors, and therefore are not published herein.

**EFFECTIVE DATE:** The requirements of this Audit Guide are effective for audits

of fiscal years ending on or after December 31, 1996 except as otherwise directed by the Corporation.

**ADDRESSES:** Comments should be submitted to the Office of Inspector General, Legal Services Corporation, 750 First St., N.E., 10th Floor, Washington, DC 20002-4250.

**FOR FURTHER INFORMATION CONTACT:** Karen M. Voellm, Chief of Audits (202) 336-8812.

**SUPPLEMENTARY INFORMATION:** Section 1009(c)(1) of the Legal Services Corporation Act, 42 USC § 2996h(c)(1), requires that the Corporation either directly "conduct, or require each grantee, contractor, or person or entity receiving financial assistance" from the Corporation to provide for an annual financial audit. LSC's FY 1996 appropriation act, 110 Stat. 1321 (1996), declared that audits conducted pursuant to the provisions of Section 509 of that Act shall be in lieu of the financial audits otherwise required by Section 1009(c) of the LSC Act. In Section 509, Congress: (1) mandated that routine on-site monitoring of grantee compliance be accomplished through annual audits conducted by independent public accountants (IPAs or auditors), 110 Stat. 1321, § 509(a) and (c); (2) provided that such audits be conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States, under the guidance established by the OIG, 110 Stat. 1321, § 509(a); (3) established special requirements for interim reporting by recipients on noncompliance with laws and regulations identified by their IPAs during the course of the audit, thereby placing special emphasis on recipients' compliance with laws and regulations, 110 Stat. 1321, § 509(b); and (4) made sanctions available to the Corporation and the OIG for audits that were not conducted in accordance with the guidance established by the OIG, 110 Stat. 1321, § 509(c). Congress also increased the restrictions and prohibitions on the types of activities in which recipients may engage, 110 Stat. 1321, § 504-508. The revisions to the Guide incorporate these requirements and include, but are not limited to: (1) interim reporting requirements by the recipient on instances of noncompliance found by the auditor during the course of the audit; (2) changes to the submission date for audit reports; and (3) additional reports/notifications from the auditor.

On August 13, 1996 the OIG published in the Federal Register for public notice and comment the revisions to the November 1995 Audit Guide for LSC Recipients and Auditors.

(61 FR 42064-42070). The notice provided for a thirty-day comment period. Comments were received from eight respondents: the American Institute of Certified Public Accountants (AICPA), Center for Law and Social Policy (CLASP), a certified public accounting firm, and five recipients. The comments were analyzed and addressed as follows. Some respondents opposed the proposed 90-day due date for the audit reports, one requested a clarification as to the reason for the change in the due date of audit reports from 150 days to 90 days. The LSC Board and senior management also expressed concerns about the revision to the 90-day time period for audit report submission. The 90-day time period had been in effect prior to promulgation of the November 1995 Audit Guide which changed the time period to 150 days.

The OIG believes its operational responsibilities for reviewing audit reports and ensuring compliance with reporting standards, as well as the timely resolution of audit findings support a shorter turn-around. However, upon careful consideration, the OIG has determined that a 120-day reporting requirement reasonably accommodates the concerns of the OIG and recipients.

One respondent stated that the Guide should clarify the relationship between the LSC Audit Guide and Office of Management (OMB) Circular A-133 requirements as some of the requirements of the Audit Guide are not requirements of OMB Circular A-133, e.g. special reporting on noncompliance. In addition, the respondent noted that the Audit Guide should address situations where the LSC program may be determined to be "low risk" under the criteria of OMB Circular A-133, and not be audited as a "major program".

In order to clarify the relationship between A-133 and the Audit Guide, the language in the Audit Guide under the Section labeled "PURPOSE" has been revised to clarify that Section 509(a) of 110 Stat. 1321 (1996) mandates the objectives of the audit of each recipient of LSC funds. Those provisions and, hence, the Audit Guide, take precedence over the requirements of OMB Circular A-133. Stated another way, regardless of the particular criteria in A-133, the LSC program should always be considered a "major program."

A new Section II-1.D, *Auditor Access to Records*, has been added to make clear that, in performing the audit, the IPA will have access to all records of the recipient that the IPA believes are reasonably necessary to the performance of the audit. This was implicit in the proposed revisions but, because the OIG

received some comments indicating that there may have been some confusion on this point, an explicit statement of access has been included.

It is axiomatic that IPAs cannot conduct an adequate audit if unable to obtain sufficient documentation regarding compliance with the requirements to be audited. Access to such documentation should not be impeded as it is well established that recipient IPAs in conducting audits are within the attorney-client privilege. See ABA Informal Opinion No. 1443 (December 10, 1979); *c.f.*, ABA Model Rules of Profession Conduct, Rule 5.3. Section 509 of the appropriations act was intended to reduce barriers to government auditors and monitors. It does not apply to the IPAs hired by the recipient. IPAs, of course, must abide by professional standards of conduct and, except if permitted to disclose such information, must keep confidential the information obtained in the course of the audit. AICPA Code of Professional Conduct, § 301.01.

One respondent viewed references to the laws and regulations subject to interim reporting as confusing. The criteria for reporting apply to any instances of noncompliance found by the auditor with respect to the practice restrictions identified in the Compliance Supplement. The language was revised to clarify the requirement.

The proposed revisions quoted under Section I-4, *Authority*, are those statutory provisions relied upon as authority to promulgate the Guide. The OIG deleted the quotations and simply cited the relevant statutory provisions. Full quotations are not only unnecessary, their inclusion in the Guide caused some confusion among respondents.

Respondents recommended that notification to the OIG be required only when there is disagreement between the recipient and the auditor resulting in the auditor's resignation or a termination of services during the course of the audit. The OIG views all notifications on change of auditors as important to its management information systems and its communication with recipients and auditors. No exceptions were made to the reporting requirement.

Some of the respondents suggested that the Audit Guide address the allocation of audit costs among funding sources, in light of the provision of Section 509(c) of 110 Stat. 1321 (1996), and current limitations imposed by some funding sources on the allocation of audit costs to the respective grants, e.g. Administration on Aging grants. The OIG and Corporation management

view the issue of audit cost allocation as an accounting rather than an auditing issue. Allocation of audit cost is a subject of the LSC Accounting Guide for Recipients and Auditors and 45 C.F.R Part 1630 (Cost Standards and Procedures) and is therefore not addressed in this Audit Guide. Management will provide guidance to recipients in the near future.

One respondent commenting on the statutory language that requires the auditor to select a representative number of transactions for testing compliance suggested that the Audit Guide provide information on minimum number of transactions to be tested for compliance. Auditors are required to refer to the AICPA's Statements on Auditing Standards, Government Auditing Standards, and OMB Circular A-133, and to use their own judgement in determining sample sizes for testing. No changes were made to the Audit Guide to address this comment.

One respondent commented that the auditor's reporting responsibility to the OIG under Section II-1.G, Disclosure of Irregularities, Illegal Acts, and Other Noncompliance, was unclear and not adequately distinguished from the recipient's reporting responsibility. The language was revised to clarify the recipient's responsibility for reporting to the OIG under the LSC grant assurance, and to recognize the auditor's responsibility to report to specified external parties (including the OIG) under Government Auditing Standards, Chapter 5.

There are seven appendices to the Audit Guide. One of the appendices to the Audit Guide is a revised Compliance Supplement which identifies regulations that the auditor should examine in the course of the recipient's annual audit, compliance requirements prepared by management, and audit procedures developed by the OIG for the auditor's use in assessing compliance with applicable laws and regulations. The other appendices include a sample audit agreement, a Guide for Procurement of Audit Services, a summary findings form, the recipient's and the auditor's 5-day notification to the OIG of the auditor's special report on noncompliance with laws and regulations, and the auditor's notification on cessation of services. Recipients and interested parties have been provided an opportunity to comment on the Compliance Supplement before final adoption. Because the appendices themselves establish no new rules, regulations, or guidelines for recipients, they are not published for comment.

For the reasons set forth above, the Audit Guide is revised to read as follows:

Legal Services Corporation  
Audit Guide for Recipients and Auditors  
Foreword

Under the Legal Services Corporation (LSC) Act, LSC provides financial support to organizations that furnish legal assistance to eligible clients. Section 1009(c) of the LSC Act requires that LSC either conduct or require each recipient of LSC funds to provide for an annual financial statement audit. In 1995, LSC promulgated an Audit Guide to replace the audit portions of both the 1981 and the 1986 LSC Audit and Accounting Guide for Recipients and Auditors. The 1995 Guide required that recipient audits be conducted in accordance with Office of Management and Budget (OMB) Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions.

In 1996, pursuant to 110 Stat. 1321 (1996) (Public Law 104-134), Congress:

1. Mandated that routine on-site monitoring of grantee compliance be accomplished through annual audits conducted by independent public accountants (IPAs or auditors);
2. Provided that such audits be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States under the guidance established by the OIG;
3. Declared that audits conducted pursuant to the provisions of Section 509 shall be in lieu of the financial audits otherwise required by Section 1009" of the LSC Act;
4. Increased the restrictions and prohibitions on the types of activities in which recipients may engage; and
5. Established special requirements for interim reporting by recipients on noncompliance with laws and regulations identified by their IPAs during the course of the audit, thereby placing special emphasis on recipients' compliance with laws and regulations.

This legislation contains substantial and fundamental changes in the law governing grants to LSC recipients. It incorporates restrictions in the legal work in which LSC recipients may participate, and changes the way compliance with these restrictions will be monitored. The IPA's special attention is directed to Appendix A, the Compliance Supplement, in planning the audit. The Compliance Supplement identifies by asterisk (\*) practice restrictions that are considered material

to the LSC program. Because of the increased reliance on IPAs for assessing recipients' compliance with these restrictions, the OIG is planning a heightened quality assurance review program. The overall objective of the quality assurance review program is to ensure the quality of the auditor's work, and it will focus on, among other things, the auditor's testing of compliance with laws and regulations and related internal controls.

Pursuant to the audit requirements of 110 Stat. 1321 (1996), LSC is promulgating this revised Audit Guide. Seven appendices have been attached to this Audit Guide for use by recipients and auditors, as follows:

Appendix A—The Compliance Supplement provides notice to both recipients and their auditors of the specific LSC regulations which are to be tested for compliance. The Compliance Supplement will change as LSC rules, regulations and guidelines are adopted, amended or revoked, but it establishes no new rules, regulations or guidelines itself.

Appendix B—A Sample Audit Agreement contains mandatory and suggested provisions which recipients should consider incorporating into their audit agreements.

Appendix C—A Guide for Procurement of Audit Services prepared by the LSC Office of Inspector General (OIG) in the spring of 1994 and revised in 1995 and 1996. This Guide is intended to assist recipients in planning and procuring audit services.

Appendix D—A Summary Findings Form on Noncompliance with Laws and Regulations, Questioned Costs and Reportable Conditions, along with instructions. This form provides a summary of the audit findings contained in the audit reports and financial data concerning the LSC support, fund balance and expenditures on Private Attorney Involvement (PAI).

Appendix E—The Recipient 5-day Letter to the OIG of the IPA's "Special Report on Noncompliance with Laws and Regulations" ("Recipient 5-day Letter"). This is the recipient's transmittal letter to the OIG accompanying the auditor's report.

Appendix F—The Auditor 5-Day Letter to the OIG of the IPA's "Special Report on Noncompliance with Laws and Regulations" not Reported by Recipient ("Auditor 5-Day Letter"). This is the auditor's transmittal letter to the OIG accompanying the auditor's report.

Appendix G—The Auditor Notification on Cessation of Services. This a form letter notifying the OIG that there has been a change in audit firms.

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  - Appendix G—Auditor Notification on Cessation of Services

Note: Appendixes A–G do not appear in the Federal Register. See **SUPPLEMENTARY INFORMATION**.

Authorities: The Legal Services Corporation Act of 1974, as amended, § 1008 (a) and (b), (42 USC 2996g (a) and (b)); § 1009(c)(1), (42 USC 2996h(c)(1)); and § 1010(c), (42 USC 2996i(c)); The Inspector General Act of 1978, as amended, 5 USC App. 3, § 4(a)(1); and § 4(b)(1); 110 Stat. 1321 §§ 501–509 (1996).

## LSC Audit Guide for Recipients and Auditors

## I. Introduction

The Office of Inspector General (OIG) of the Legal Services Corporation (LSC) is responsible for establishing and interpreting LSC audit policy pursuant to the Inspector General Act of 1978, as amended, and the LSC Board of Directors' resolution of May 13, 1995. In 1996, pursuant to the requirements of Section 509 of 110 Stat. 1321 (1996), Congress: (1) mandated that routine on-site monitoring of grantee compliance be accomplished through annual audits conducted by IPAs; (2) increased the restrictions and prohibitions on the

types of activities in which recipients may engage; (3) increased the OIG responsibility for oversight; and (4) declared that the audits conducted pursuant to Section 509 of 110 Stat. 1321 (1996) were in lieu of the financial audits otherwise required by the LSC Act § 1009(c). This Guide incorporates those requirements. The OIG will examine the audits to identify reported instances of noncompliance with laws and regulations, questioned costs and control deficiencies, and will refer the findings and recommendations to management for action.

## I-1. Purpose

The Audit Guide provides a uniform approach for audits of LSC recipients and describes recipients' responsibilities with respect to the audit. The Audit Guide is to be used in conjunction with the Compliance Supplement (Appendix A). The Audit Guide and the Compliance Supplement provide the auditor flexibility in planning and performing the audit, encourage professional judgment in determining the audit steps necessary to accomplish audit objectives, and do not supplant the auditor's judgment. Auditors should be aware that all practice restrictions identified in the Compliance Supplement by asterisk (\*) are considered material to the program, and the failure of a recipient to comply with the requirements may affect the recipient's eligibility for funding.

## I-2. Required Standards and Guidance

Audits of recipients, contractors, persons or entities receiving financial assistance from LSC (all hereinafter referred to as "recipients") are to be performed in accordance with Government Auditing Standards (GAS or GAGAS) issued by the Comptroller General of the United States; Office of Management and Budget (OMB) Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Organizations; and this Audit Guide.

For purposes of OMB Circular A-133, the LSC Compliance Supplement is to be followed for LSC funds and includes the restrictions and prohibitions on the use of non-LSC funds. Accordingly, the OMB Compliance Supplement for Audits of Institutions of Higher Education and Other Nonprofit Institutions (OMB Compliance Supplement) does not apply to LSC funds. If the non-LSC funds (Federal or state) of a recipient are subject to consideration under the OMB Circular A-133 audit, the OMB Compliance Supplement may otherwise apply to those funds.

Each recipient of LSC funds is required to have an audit in accordance with the requirements of this Guide. Such audit shall meet the objectives outlined in Section II-1.A, "Objectives", which include an assessment of the recipient's compliance with the laws and regulations identified in the Compliance Supplement (Appendix A).

## I-3. Applicability

The requirements of this Audit Guide apply to all recipients and subrecipients of LSC funds, except where specific provisions have been otherwise made through grant or subgrant agreements. This Audit Guide does not apply to grants to law schools, universities or other special grants, which are covered by special provisions of the respective grant agreements. Exceptions to these audit requirements are determined by the OIG in consultation with management.

## I-4. Authority

This Audit Guide has been prepared under the authority provided by the following sections of the LSC Act, the IG Act and 110 Stat. 1321 (1996): LSC Act § 1008 (a), (b), 42 U.S.C § 2996g (a), (b); LSC Act § 1009(c)(1), 42 U.S.C § 2996h(c)(1); and LSC Act § 1010(c), 42 U.S.C § 2996i(c). IG Act § 4(a)(1), 4(b)(1), 5 U.S.C APP 3 § 4(a)(1), 4(b)(1). 110 Stat. 1321 (1996) §§ 509 (a) to (l).

## I-5. Effective Date

This Audit Guide is effective for audits of LSC programs for periods ending on or after December 31, 1996, except as otherwise authorized by the Corporation.

## I-6. Communicating with the OIG Regarding Audit Matters

Recent legislation has brought a number of changes in the communication needs of recipients, IPAs, and the OIG. Because of these changes, the OIG is making special efforts to facilitate the additional communications needs. We are currently expanding reporting capabilities through electronic mail on the Internet, as well as providing a World Wide Web page for interactive "Questions and Answers."

In addition, the OIG also has a staff of auditors available to answer questions, or address audit issues by telephone or facsimile.

The phone numbers and addresses are:

Telephone—(202) 336-8812  
 Email—audits@smtp.lsc.gov  
 Fax—(202) 336-8955  
 Web Site—<http://oig.lsc.gov/>

I-7. Revisions to the Guide

The OIG will periodically revise the Audit Guide and its appendices through bulletins or replacement sections. Revisions may reflect changes to public law, corporate regulations, auditing standards, or other guidelines. Revisions should be incorporated into the recipient's copy of the Audit Guide, and furnished to the Independent Public Accountant (IPA) by the recipient. Questions relating to any revisions should be directed to the OIG. Information concerning the Audit Guide and any revisions will be posted periodically and will be available on the LSC OIG World Wide Web page.

I-8. Cumulative Status of Revisions

Effective Date	Description
Aug. 1976 .....	Original Edition of "Audit and Accounting Guide for Recipients and Auditors" issued.
June 1977 .....	Revised Original Edition of Audit and Accounting Guide issued.
Sept. 1979 .....	Revision to Pages 4-1 and 6-6.
Sept. 1981 .....	Revision to Pages ii, 4-1, 6-6, VIII-3, and addition of Page 4-2.
Jan. 1, 1986 .....	Revised 1986 Edition of Audit and Accounting Guide Effective.
Aug. 13, 1986 ...	Regulation 1630 Replaces Chapter 4 of both the Original and 1986 Edition of the Audit and Accounting Guide.
Dec. 31, 1995 ...	Chapter 6 of both Original and 1986 Audit and Accounting Guide replaced by Audit Guide.
Dec. 31, 1996 ...	Revision to November 1995 Audit Guide to adopt audit provisions of 110 Stat. 1321 (1996).

I-9. Responsibilities of Recipients

I-9.A. Maintain Adequate Internal Controls

Recipients, under the direction of their boards of directors, are required to establish and maintain adequate accounting records and internal control procedures. Until revised, guidance relating to these responsibilities may be found in both LSC's 1981 and 1986 editions of the "Audit and Accounting Guide for Recipients and Auditors," referred to above in Section I-8, "Cumulative Status of Revisions."

Internal Control is defined as the process put in place by the recipient's board of directors, management, and other personnel designed to provide reasonable assurance of achieving objectives over:

1. Reliability of financial reporting;
2. Compliance with laws and regulations that have a direct and material effect on the program; and any other laws so identified in the Compliance Supplement; and
3. Safeguarding of assets against unauthorized use or disposition.

I-9.B. Provide Audited Financial Statements

Recipients are responsible for preparing annual financial statements and arranging for an audit of those statements to be completed and submitted to the OIG within 120 days of the recipients' fiscal year ends. While the recipients' boards of directors have the final responsibility for the appointment of the auditor, pursuant to Section 509(d) of 110 Stat. 1321 (1996), the OIG has direct authority to " \* \* \* remove, suspend, or bar an independent public accountant, upon showing of good cause, from performing audit services required by this section \* \* \*", based upon rules of practice to be promulgated by the OIG.

Pursuant to Section 509(c) of 110 Stat. 1321 (1996), the recipient's failure to provide an acceptable audit in accordance with the guidance promulgated by the OIG may result in the following sanctions: (1) the withholding of a percentage of the recipient's funding until the audit is completed satisfactorily; or (2) the suspension of the recipient's funding until an acceptable audit is completed.

A written agreement between the recipient and the IPA must be executed and, at a minimum, should specifically include all matters described below in Section II-1, *Audit Requirements* (Subsections A through I). Contracts or engagement letters should also contain an escape clause that would allow, without significant penalty, modification or cancellation made necessary by changes in law.

Appendix B is a sample audit agreement that includes the required matters described in Section II-1, *Audit Requirements*, and additional provisions which can be used to document the understanding between the recipient and the IPA. Recipients should consider incorporating these additional provisions in their audit agreements.

In procuring audit services, recipients may refer to the Guide for Procurement of Audit Services (Appendix C).

I-9.C. Requirements for Recipient 5-Day "Special Report" to the OIG on Noncompliance with Laws and Regulations

Section 509(b) of 110 Stat. 1321 (1996) states that recipients "shall report in writing any noncompliance found by the auditor during the audit \* \* \* within 5 business days to the Office of the Inspector General and shall provide a copy of the report simultaneously to the auditor. If the recipient fails to report the noncompliance, the auditor shall report the noncompliance directly to the Office of the Inspector General within 5 business days of the recipient's failure to report. The auditor shall not be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to this section."

In fulfilling this requirement, recipients are required to report to the OIG any instances of noncompliance with respect to the practice restrictions identified in the Compliance Supplement as reported by the auditor in accordance with Section II-1.H, *Requirements for Auditor 5-Day "Special Report" to the OIG on Noncompliance with Laws and Regulations*. The recipient must report to the OIG within five (5) business days after receiving the report of noncompliance from the IPA. The recipient's submission to the OIG pursuant to this section is to include a transmittal letter, and a copy of the auditor's "Special Report on Noncompliance with Laws and Regulations" (See Appendix E for Recipient 5-Day Letter). Reports submitted pursuant to the requirements of this section must be sent to the OIG by facsimile, Email or registered mail. The recipient is also required to simultaneously provide a copy of its report to the OIG to the auditor using the same manner of communication (facsimile, Email or registered mail).

I-9.D. Corrective Action Plans

Consistent with Section 509(j) of 110 Stat. 1321 (1996), recipient management is responsible for expeditiously resolving all recommendations and audit findings which include: (1) material reportable conditions in internal control; (2) material noncompliance with laws and regulations identified in the LSC Compliance Supplement (Appendix A); and (3) questioned costs, including those of sub-recipients. Recipients are required to develop and submit to the Corporation corrective action plans within 30 days of submission of the audit report to the OIG. The corrective

action plan must describe the corrective action taken or planned in response to the audit findings and recommendations identified by the IPA. The corrective action plan must identify: (1) each finding as reported by the IPA; and (2) the action that will be taken and the date by which it will be taken or completed. If the recipient disagrees with the finding or believes corrective action is not required, it shall provide an explanation and specific reason(s) (e.g. regulatory or legal requirements) that corrective action is not required. If practical, and as an option, a recipient may incorporate its corrective action plan in its response to the auditor's findings and recommendations. However, selection of this option shall not preclude submission of the audit reports within the required timeframe, nor serve as a basis for an extension request.

Pursuant to the requirements of Section 509(k)(1) of 110 Stat. 1321 (1996), LSC management has the responsibility for follow-up on “\* \* \* significant reportable conditions, findings and recommendations found by the independent public accountants and [referred] to the Corporation management by the Office of Inspector General to ensure that instances of deficiencies and noncompliance are resolved in a timely manner \* \* \*” To facilitate the responsibilities of LSC management and the OIG, recipients are required to submit the corrective action plans to the OIG; the corrective actions plans will be forwarded to LSC management by the OIG.

## II. Audit Performance Requirements

### II-1. Audit Requirements

#### II-1.A. Objectives

The primary audit objectives are to determine whether:

1. The financial statements are presented fairly, in all material respects, in conformity with Generally Accepted Accounting Principles (GAAP), or other Comprehensive Basis of Accounting;

2. The internal control structure provides reasonable assurance that the recipient is managing funds, regardless of source, in compliance with applicable Federal laws and regulations, and controls are in place to ensure compliance with the laws and regulations which could have a material impact on the financial statements; and

3. The recipient has complied with applicable provisions of Federal law, Corporation regulations and grant agreements, regardless of source of funds, which may have a direct and material effect on its financial statement amounts and on the LSC program.

#### II-1.B. Reports

The IPA will prepare the audit reports required by GAS and OMB Circular A-133. Recipients should ensure that management letters are included with the report submissions to LSC, as well as the Summary Findings Form on Noncompliance with Laws and Regulations, Questioned Costs and Reportable Conditions (See Appendix D for form and content). The IPA has additional responsibility under Section II-1.H, *Requirements for Auditor 5-Day “Special Report” to the OIG on Noncompliance with Laws and Regulations*, for interim reporting of noncompliance with certain laws and regulations.

#### II-1.C. Qualifications of the IPA

The comprehensive nature of auditing performed in accordance with GAS places on the IPA the responsibility for ensuring that: (1) the audit is conducted by personnel who collectively have the necessary skills; (2) independence is maintained; (3) applicable standards are followed in planning and conducting audits and reporting the results; (4) the IPA has an appropriate internal quality control system in place; and (5) the IPA undergoes an external quality control review. IPAs must meet the qualifications stated in GAS.

#### II-1.D. Auditor Access to Records

The IPA will be provided access to all records of the recipient the IPA reasonably believes to be necessary to the performance of the audit.

#### II-1.E. Audit Working Papers

The audit working papers are to be prepared in accordance with GAS, and are to be retained by the IPA for at least three years from the date of the final audit report.

#### II-1.F. Access to Audit Working Papers

The audit working papers are to be available for examination upon request by representatives of LSC and the Comptroller General of the United States. The LSC Act, § 1009(d), prohibits access by the Corporation and the Comptroller General to any reports or records subject to the attorney-client privilege. To the extent not protected by the attorney-client privilege, the Corporation, including the OIG, is provided with access by Section 509 (h) of 110 Stat. 1321 (1996) to “\* \* \* financial records, time records, retainer agreements, client trust fund and eligibility records, and client names \* \* \*” The audit working papers are subject to Quality Assurance Review by the LSC OIG.

#### II-1.G. Disclosure of Irregularities, Illegal Acts and Other Noncompliance

During an audit, if matters are uncovered relative to actual, potential, or suspected defalcations, or other similar irregularities, the IPA will comply with Statement on Auditing Standards (SAS) Number 53, “The Auditor’s Responsibility to Detect and Report Errors and Irregularities,” and SAS Number 54, “Illegal Acts by Clients.” While the auditor may contract directly with the recipient for audit services, it is emphasized that any items considered by the auditor to justify reporting to the recipient’s program director and/or board of directors, should also be included in the auditor’s reports or management letter for LSC’s consideration. IPAs should be aware that the recipient, by grant assurance, has a responsibility to report to the OIG within specified time periods on matters involving misappropriation, theft, embezzlement of any funds (LSC, non-LSC and client escrow funds) and property, regardless of recovery. IPAs should also follow Government Auditing Standards, Chapter 5, for guidance on direct reporting of irregularities and illegal acts to the OIG. The reporting requirements under this section are separate and distinct from the special reporting requirements discussed at Section II.1.H below.

#### II-1.H. Requirements for Auditor 5-Day “Special Report” to the OIG on Noncompliance with Laws and Regulations

Section 509(b) of 110 Stat. 1321 (1996):

(1) Recognizes the auditor’s responsibility to select and test a representative number of transactions and report any instances of noncompliance with laws and regulations;

(2) Provides that the auditor shall not be liable in a private action for any finding, conclusion, or statement expressed in a special report on noncompliance made pursuant to this section; and

(3) Places additional responsibility on the auditor to report any instances of noncompliance directly to the OIG, in the event the recipient fails to notify the OIG within five (5) business days of receipt of the auditor’s interim report on noncompliance.

The IPA is responsible for providing sufficient information to the recipient on the findings of noncompliance to facilitate the recipient meeting its interim reporting responsibilities under Section I-9.C, *Requirements for Recipient 5-Day “Special Report” to the*

*OIG on Noncompliance with Laws and Regulations.* The laws and regulations requiring special reporting are defined in the Compliance Supplement (Appendix A). When a determination has been made that an instance of noncompliance based on sufficient competent evidential matter has occurred, IPAs are to report *immediately* to the recipient. The IPA's report to the recipient pursuant to this section should not await completion of the audit reports identified below in Section III, *Audit Reporting Requirements*. The IPA's special report to the recipient shall be in letter format and shall specifically contain, at a minimum, the following: (1) a description of the particular instance(s) of noncompliance discovered during the course of the audit; and (2) the circumstances surrounding the instance(s) of noncompliance.

Within five (5) business days after issuance of the IPA's special report to the recipient, and in accordance with Section I-9.C, *Requirements for Recipient 5-Day "Special Report" to the OIG on Noncompliance with Laws and Regulations*, the auditor should receive from the recipient a copy of the recipient's 5-day letter to the OIG. If no such copy is received, the IPA shall submit a copy of the report directly to the OIG, within five (5) business days of the recipient's failure to provide the required copy of its report to the OIG. This statutory procedure thus ensures that the OIG will receive a copy of the IPA's special report on noncompliance within ten (10) business days after the recipient's receipt of the report from its auditor (See Appendix F for the Auditor 5-Day Letter to the OIG). The auditor's submission to the OIG under this section must be transmitted by facsimile, Email or registered mail.

#### II-1.I. IPA Notification to OIG on Cessation of Audit Services

Pursuant to Section 509(e) of 110 Stat. 1321 (1996), the IPA is required to notify the OIG when it ceases to provide audit services to the recipient. The IPA shall notify the OIG within five (5) business days of its termination or cessation of services to the recipient. (See Appendix G for the notification form.)

#### II-2. Review of Internal Controls

In accepting LSC funds, recipient management asserts that its accounting system is adequate to comply with LSC requirements. As part of the review of internal controls, the auditor is required to evaluate the effectiveness of the recipient's accounting system and internal controls. The primary

objectives of this evaluation are to ensure that resources are safeguarded against waste, loss and misuse, and that resources are used consistent with LSC regulations and grant conditions.

#### II-3. Assessing Compliance with Laws and Regulations

The requirements set out in the Compliance Supplement (Appendix A) are those which could have a material impact on the LSC program. Accordingly, examination of these compliance requirements is part of the audit. As stated in Section I-1, "Purpose", Congress increased the restrictions and prohibitions on the types of activities in which recipients may engage. The failure of a recipient to comply with the practice restrictions contained in the Compliance Supplement may affect the recipient's eligibility for LSC funding.

The Compliance Supplement specifies the compliance requirements and provides suggested procedures to be considered in the auditor's assessment of a recipient's compliance with laws and regulations. The suggested procedures can be used to test for compliance with laws and regulations, as well as to evaluate the related controls. Auditors should use professional judgement in deciding which procedures to apply, and the extent to which reviews and tests should be performed. Auditors are required to select and test a representative number of transactions. If the reviews and evaluations are performed as part of the internal control structure review, audit procedures should be modified to avoid duplication. Auditors should also refer to the grant agreements for additional requirements.

In certain cases, noncompliance may result in questioned costs. Auditors are to ensure that sufficient information is obtained to support the amounts questioned. Working papers should adequately document the basis for any questioned costs and the amounts reported.

#### II-4. Audit Follow-up

Consistent with GAS paragraph 4.10, *Audit Follow-up*, the auditor is required to follow-up on known material findings and recommendations from previous audits that could affect the financial statement audit and, in this case, the program. The objective is to determine whether timely and appropriate corrective action has been taken. Auditors are required to report the status of uncorrected material findings and recommendations from prior audits. These requirements are also applicable

to findings and recommendations issued in a management letter.

### III. Audit Reporting Requirements

#### III-1. Audit Reports and Distribution

IPAs should follow the requirements of GAS, OMB Circular A-133, Statement on Auditing Standards (SAS) 74 and Statement of Position (SOP) 92-9 (and any revisions thereto) for guidance on the form and content of reports. The OMB Circular A-133 reports must reference the LSC Audit Guide and its Compliance Supplement. In addition to the reports required under OMB Circular A-133, IPAs are required to submit a Summary Findings Form on Noncompliance with Laws and Regulations, Questioned Costs and Reportable Conditions (Appendix D). Three copies of the audit reports, Summary Findings Form on Noncompliance with Laws and Regulations, Questioned Costs and Reportable Conditions and the management letter, where applicable, are to be submitted to the LSC OIG within 120 days of the recipient's year end.

#### III-2. Extension Requests for Audit Submissions

Under exceptional circumstances, an extension of the 120-day requirement may be granted. Requests for extensions must be submitted in writing not later than two weeks prior to the report due date, and directed to the Office of Inspector General. Requests not submitted in the required time frame will be granted only under unforeseen, extraordinary and compelling reasons.

#### III-3. Views of Responsible Officials

Consistent with GAS paragraph 7.38, Views of Responsible Officials, auditors are encouraged to report the views of the responsible program officials concerning the auditors' findings, conclusions, and recommendations, as well as planned corrective action, where practical.

### IV. Reference Materials

A. Title X—Legal Services Corporation Act of 1974, 42 USC 2996, to 2996.1.

B. 45 Code of Federal Regulations Part 1600 to 1642.

C. Government Auditing Standards, issued by the Comptroller General of the United States, 1994 Revision.

D. OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions.

E. AICPA Professional Standards, Volume I.

F. AICPA Integrated Practice System, Not-For-Profit Organizations Audit Manual.

G. Practitioners Publishing Company Guide to Audits of Nonprofit Organizations, Seventh Edition (June 1994).

H. AICPA Audit and Accounting Guide for Not-for-Profit Organizations, June 1, 1996.

I. AICPA Statement of Position (SOP) 92-9, Audits of Not-for-Profit Organizations Receiving Federal Awards, December 28, 1992.

J. Pursuant to LSC Regulations, 45 C.F.R. 1630.4(g):

The Circulars 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 acts, this part, the Audit and Accounting Guide for Recipients and Auditors, and Corporation rules, regulations, guidelines, and instructions.

Among the OMB Circulars which should be referred to if not inconsistent with LSC policies are:

Office of Management and Budget (OMB) Circular A-50, Audit Follow-up.

OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

OMB Circular A-122, Cost Principles for Nonprofit Organizations.

OMB Circular A-123, Internal Control Systems.

OMB Circular A-127, Financial Management Systems.

Dated: October 17, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96-27059 Filed 10-21-96; 8:45 am]

BILLING CODE 7050-01-P

## NATIONAL SCIENCE FOUNDATION

### Advisory Panel for Biological Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

*Name and Committee Code:* Advisory Panel for Biological Infrastructure (#1215).

*Dates and Time:* November 12-13, 1996, 8:30 a.m.-5:00 p.m.

*Place:* National Science Foundation, Room 330, 4201 Wilson Boulevard, Arlington, VA.

*Type of Meeting:* Closed.

*For Further Information Contact:* Karl Koehler and Berry Masters, Program Directors, Biological Instrumentation and Instrument Development, Room 615, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA, Telephone: (703) 306-1472.

*Purpose of Meeting:* To provide advice and recommendations concerning proposals submitted to NSF for financial support.

*Agenda:* To review and evaluate Instrument Development for Biological Research (IDBR) proposals as part of the selection process for award.

*Reason For Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96-27031 Filed 10-21-96; 8:45 am]

BILLING CODE 7555-01-M

### Special Emphasis Panel in Chemistry; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

*Name and Committee Code:* Special Emphasis Panel in Chemistry (#1191).

*Dates and Time:* November 7-8, 1996.

*Place:* Rooms, 1005, 1020 and 1060, NSF, 4201 Wilson Boulevard, Arlington, VA 22230.

*Type of Meeting:* Closed.

*For Further Information Contact:* Dr. Karolyn Eisenstein, Program Director, Office of Special Projects, Chemistry Division, Room 1055, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306-1850.

*Purpose of Meeting:* To provide advice and recommendations concerning proposals submitted to NSF for financial support.

*Agenda:* To review and evaluate proposals for Sites for Research Experiences for Undergraduates in Chemistry as part of the selection process for awards.

*Reason For Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b(c) (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96-27030 Filed 10-21-96; 8:45 am]

BILLING CODE 7555-01-M

## NATIONAL TRANSPORTATION SAFETY BOARD

### Sunshine Act Meeting

ITEM #1

**TIME AND DATE:** 9:00 a.m., Tuesday, October 29, 1996.

**PLACE:** The Managing Director's Conference Room, Rm 6430—6th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

**STATUS:** Closed to the Public Under Exemption 10 of the Government in Sunshine Act.

#### MATTERS TO BE CONSIDERED:

6724—Opinion and Order: Administrator v. Windwalker, Docket SE-14102; disposition of respondent's and Administrator's appeals.

ITEMS #2, #3 and #4

**TIME AND DATE:** 9:30 a.m., Tuesday, October 29, 1996.

**PLACE:** The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

6626D—Highway/Railroad Accident Report: Collision of Northeast Illinois Regional Commuter Railroad Corporation Train and Transportation Joint Agreement School District 47/155 School Bus at Railroad/Highway Grade Crossing, Fox River Grove, Illinois, October 25, 1995.

6676A—Railroad Accident Report: Collision of Washington Metropolitan Area Transit Authority Train T-111 with Standing Train at Shady Grove Passenger Station, Rockville, Maryland, January 6, 1996.

6671A—Aviation Accident Report: Runway Departure During Attempted Takeoff; Tower Air Flight 41, Boeing 747-136, John F. Kennedy International Airport, New York, December 20, 1995.

News media contact: Telephone: (202) 382-0660.

**FOR MORE INFORMATION CONTACT:** Bea Hardesty, (202) 382-6525.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 96-27169 Filed 10-18-96; 12:33 pm]

BILLING CODE 7533-01-P

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).