Having examined the record in this investigation, including the briefs and the responses thereto, the Commission determined (1) not to review the ALJ's finding in the IAO that access from the United States of Mentor's foreign design verification centers would not be covered by the Commission's cease and desist order, (2) to take no position on the ALJ' s alternative determination in the IAO concerning the ''use'' of Mentor's hardware logic emulator in the United States if the term ''covered product'' in the cease and desist order is interpreted to include infringing hardware and software that has not been imported, (3) to affirm Order No. 115, and (4) to grant Quickturn's motion to file a reply to the response of the IA to Quickturn's petitions to the Commission.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission rule 210.79, 19 CFR 210.79.

Issued: September 22, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–24915 Filed 9–27–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 332–350 and 332–351]

Monitoring of U.S. Imports of Tomatoes, Monitoring of U.S. Imports of Peppers

AGENCY: United States International Trade Commission.

ACTION: Changes in written submission's due date and date of publication of monitoring reports in 2000.

EFFECTIVE DATE: September 22 , 2000.

FOR FURTHER INFORMATION CONTACT: For general information, Timothy McCarty (202–205–3324) or Cathy Jabara (202–205–3309), Agriculture and Forest Products Division, Office of Industries, or for information on legal aspects, William Gearhart (202–205–3091), Office of the General Counsel, U.S. International Trade Commission. Hearing impaired persons can obtain information on these studies by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Background

Section 316 of the North American Free-Trade Agreement Implementation Act (NAFTA Implementation Act), 19 U.S.C. 3381, directs the Commission to monitor imports of fresh or chilled tomatoes (HTS heading 0702.00) and fresh or chilled peppers, other than chili peppers (HTS subheading 0709.60.00), until January 1, 2009. As a result of such monitoring, the domestic industry producing a like or directly competitive perishable agricultural product may request, in a global safeguard petition filed under section 202 of the Trade Act of 1974 or a bilateral safeguard petition filed under section 302 of the NAFTA Implementation Act, that provisional relief be provided pending completion of a full section 202 or 302 investigation. If provisional relief is requested, the Commission has 21 days in which to make its decision and to transmit any provisional relief recommendation to the President. In response to the monitoring directive, the Commission instituted investigation No. 332–350, Monitoring of U.S. Imports of Tomatoes (59 FR 1763) and investigation No. 332–351, Monitoring of U.S. Imports of Peppers (59 FR 1762).

Although section 316 of the NAFTA Implementation Act does not require that the Commission publish reports on the results of its monitoring activities, the initial notices of investigation for these studies indicated that the Commission planned to publish reports on the monitoring annually. Subsequently, the Commission has published statistical reports in those years in which it was not conducting an investigation under other statutory authority with respect to such products.

On June 12, 2000, the Commission published in the **Federal Register** a notice that it intended to publish monitoring reports in September 2000. In the same notice, the Commission also invited all interested persons to submit written statements concerning the matters to be addressed in the reports, so as to be received no later than the close of business on June 28, 2000. In response to this request, the Commission received two comments, from the Florida Tomato Exchange and the Florida Department of Agriculture and Consumer Services, asking that additional data be included in the Commission's forthcoming reports and that the official record of these investigations be held open so that certain Florida statistics might be included in this year's reports. In response, the Commission extended the deadline for filing of written statements until October 2, 2000, and changed the date for intended publication of its reports to November 15, 2000.

Written Submissions

The Commission does not plan to hold a public hearing in connection with preparation of the 2000 statistical reports. However, interested persons are invited to submit written statements concerning the matters to be addressed in the reports. Commercial or financial information which a submitter desires the Commission to treat as confidential must be provided on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested persons. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission in accordance with section 201.8 of the Commission's rules at the earliest practical date and should be received no later than the close of business on October 2, 2000. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Issued: September 22, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–24916 Filed 9–27–00; 8:45 am]

BILLING CODE 7020–02–P

LEGAL SERVICES CORPORATION

Proposed Property Acquisition and Management Manual

AGENCY: Legal Services Corporation

ACTION: Notice of proposed Property Acquisition and Management Manual.

SUMMARY: This Notice sets forth the text of a proposed Property Acquisition and Management Manual that, once adopted, will govern the use by recipients of LSC funds to acquire, use and dispose of real and nonexpendable personal property. The proposed Property Acquisition and Management Manual is intended to provide recipients with a single complete and consolidated set of policies and procedures related to property acquisition, use and disposal and would supercede guidance currently contained in several LSC documents.

DATES: Written comments must be received on or before November 27, 2000.

ADDRESSES: Written comments may be submitted by mail, fax or email to Mattie C. Condray at the addresses listed below.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 750 First Street, NE., Washington, DC 20002–4250; 202/336–8817 (phone); 202/336–8952 (fax); mcondray@lsc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Legal Services Corporation's (LSC) policies and procedures regarding LSC-funded recipients' property acquisition, use and disposal are incomplete, outdated and disbursed among several different LSC documents. In 1975 and again in 1979, LSC published Instructions in the **Federal Register** setting out procedures for the procurement, inventory control and disposal of nonexpendable personal property by LSC recipients. See 44 FR 22525, April 16, 1979. In 1981, the 1979 Instruction was superseded by the Property Management Manual for LSC Programs (''1981 Property Manual'').[1]

LSC also addressed property acquisition and management issues in the 1981 version of the Audit and Accounting Guide for Recipients and Auditors (''1981 Audit Guide''). The 1981 Audit Guide included provisions requiring LSC's prior approval of certain purchases and leases of property (real and personal). These provisions were superseded by the LSC rule on cost standards and procedures, 45 CFR part 1630, which was adopted in 1986. *See* 51 FR 29082, August 13, 1986. Under the current part 1630 rule, LSC must approve in advance all purchases of real property, purchases or leases of personal property with a value of over $10,000 and capital expenditures of more than $10,000 to improve real property. 45 CFR 1630.5(b).

Notwithstanding the 1981 Audit Guide (or the current part 1630 requirements), the 1981 Property Manual, like its predecessor Instructions, does not address the acquisition, use or disposal of real property.[2] LSC has instead established its policies relating to real property in a variety of internal memoranda, Program Letters, regulations, grant assurances and individual agreements with recipients purchasing real property which have either restricted the use or regulated the disposal of the property in the event of cessation of LSC funding. Having policies related to real property in such unconnected and disparate sources has become untenable. For example, grant assurances on property have not been consistent over time and have on occasion been challenged as lacking legal authority.

Accordingly, LSC has decided that all of the relevant policies and requirements related to the acquisition, use and disposal of real and personal property should be consolidated and issued in one document. LSC offers the following proposed Property Acquisition and Management Manual (PAMM) for comment prior to adopting a final, revised version.

Purpose and Scope

LSC proposes that this PAMM apply to both real and non-expendable personal property (equipment), but not apply to expendable personal property (supplies) or services, except for services related to capital expenditures as defined in the PAMM. LSC has not previously applied its standards in the 1981 Property Manual to supplies or services and LSC does not believe it is necessary to enlarge the scope of its oversight in such a manner.

LSC proposes to apply the requirements of the PAMM to purchases made on or after the PAMM's effective date as published in the **Federal Register**. For purchases of real property prior to the PAMM's effective date, the written agreement between the program and LSC will control. For prior purchases of personal property, the 1981 Property Manual will control.

Proposed Property Acquisition and Management Manual

Generally

The proposed PAMM contains both existing and new or revised standards and procedures. In developing the new or revised standards and procedures, LSC looked to three existing Federal sources of property acquisition and management policy: the Federal Acquisition Regulations (FAR); the Federal Property Management Regulations; and Office of Management and Budget (OMB) Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations'' which contains standards governing the use and disposition of personal and real property by non-profit recipients of Federal funding. While many provisions of the proposed PAMM are based on equivalent sections on these sources, LSC has revised these provisions as necessary to be consistent with LSC law and practice.

The proposed personal property use standards are intended to give recipients flexibility in using such property acquired with LSC funds, provided that the primary use of the property is for the delivery of legal services to eligible clients in accordance with the requirements of the LSC Act and regulations. The proposed standards governing the disposal of personal property revise existing policy to reflect the heightened need, in this era of reduced funding and competition for grants, for LSC to be compensated for its interest in LSC-funded property. Accordingly, in the event that a recipient owning personal property purchased with LSC funds ceases to receive LSC funding, these standards require LSC approval prior to disposal of the property.

The proposed PAMM would retain LSC's longstanding policy to permit recipients, with LSC's approval, to use LSC funds to purchase real property for the delivery of legal services to eligible clients. The proposed procedures, which incorporate provisions from Program Letter 98-4, would require recipients to demonstrate that purchasing is more economical than leasing. Recipients would also be required to agree to reimburse LSC in the event of a discontinuation of funding.

Section-by-Section Analysis

Section 1—Purpose and Scope

The section contains a statement indicating that the purpose of this PAMM is to set forth standards governing the acquisition, retention, use and disposal of personal and real property acquired in whole or in part with LSC funds. The section would also specify that LSC intends the standards in this PAMM to apply to both real and non-expendable personal property

[1] The Introduction to the 1981 Property Manual states that it was intended to supersede the 1975 Instruction. No mention is made of the 1979 Instruction. However, because the Manual was finalized as a slightly revised version of the 1979 Instruction, longstanding LSC policy has been that the 1981 Property Manual superseded the 1979 Instruction as well. Current LSC grant assurances and the current Accounting Guide for LSC Recipients reference the Property Manual ''or its duly adopted successor.''

[2] There have been suggestions to LSC that the 1981 Property Manual was originally intended to apply to real property and was so applied at sometime in the past. LSC's reading of the terms of the manual, however, and LSC's practice over the last several years applying the requirements of the 1981 Property Manual only to personal property, indicate that it does not, in fact, apply to real property.

(equipment), but not to expendable personal property (supplies) or services, except services for capital improvements which are subject to the requirements of Section 4(f). LSC has not previously applied the 1981 Property Manual standards to supplies and LSC does not believe that it is necessary to enlarge the scope of its oversight in such a manner. Finally, this section makes clear that LSC proposes to apply the requirements of the PAMM to purchases made on or after the PAMM's effective date as published in the **Federal Register**. For purchases of real property prior to the PAMM's effective date, the written agreement between the program and LSC would control. For prior purchases of personal property, LSC intends that the 1981 Property Manual would control.

Section 2—Definitions

This section sets forth proposed definitions of key terms used throughout the PAMM.

Section (2)(a) would define acquisition as a purchase of real property or a purchase or lease of personal property. It can consist of a single item or it can consist of multiple items obtained simultaneously through a single contract. This definition of acquisition is adapted from the definition of acquisition appearing in the FAR. The FAR definition of acquisition includes leases of real property as well, but LSC proposes to leave real property leases out of the definition of acquisition because LSC proposes to exclude leases of real property from the coverage of the PAMM. LSC proposes to use the term ''acquisition'' throughout the PAMM, except in those instances in which it is necessary to differentiate between personal property which is leased and personal property which has been purchased. In those cases, the terms ''lease'' or ''purchase'' will be used as appropriate.

Section 2(b), capital improvement, incorporates the $10,000 capitalization threshold of LSC's regulation governing cost standards and procedures, 45 CFR 1530.5(b)(2).

Section 2(c) proposes to define lease as a contract for the use of property during a specified period for a specified price. Under a lease, the lessee does not take ownership of or title to the property.

Section 2(d) contains a definition for LSC property interest agreement, a term used in Sections 4(e) and 8(d) of this PAMM. The proposed definition is consistent with section 2–2.4 of the Accounting Guide for LSC Recipients, which sets forth the principle that LSC possesses a reversionary interest in real property purchased in whole or in part with LSC funds. LSC is not, however, proposing to use the term ''reversionary interest'' because LSC believes that the use of ''reversionary interest'' might be confusing. Although LSC's recipients who have entered into agreements with LSC pursuant to the purchase of real property understand what reversionary interest means in the context of their agreements, the term is a widely used term of art in the property law context with a somewhat broader and different meaning. To avoid potential confusion, LSC proposes to use the more accurate ''LSC property interest agreement.''

Section 2(e) contains a definition of personal property adapted from OMB Circular A–110. LSC proposes to omit supplies, which are considered to be personal property in the OMB Circular, from the definition because LSC does not intend to apply its property acquisition and management standards to the purchase, retention or use of supplies.

Section 2(f) proposes to limit the definition of real or personal property to property with a market value of over $1000 and a useful life of more than one year. This definition is taken from Section 2–2.4 of the Accounting Guide for LSC Recipients. This definition is consistent with OMB Circular A–110, except that LSC has chosen a capitalization threshold of $1,000 instead of $5,000. The lower threshold is intended to maintain consistency with the LSC Accounting Guide. With this definition, LSC proposes that the property acquisition and management standards would not apply to property excluded from the definition.

Section 2(g) contains a proposed definition of purchase. LSC proposes to use the term purchase in reference to personal property which the recipient obtains ownership of, as distinguished from leased personal property.

Section 2(h) sets forth a proposed definition for quote which incorporates language from the definition of ''offer'' in the FAR. For the purposes of the PAMM, a quote is intended to be the basis for informal negotiation which results in an offer by the recipient, typically in the form of a purchase order, which a source may accept or reject.

Section 2(i) sets forth a proposed definition of real property taken from the definition of the same term in OMB Circular A–110.

Section 2(j) contains a proposed definition of source as a supplier, vendor or contractor who has agreed to provide property to a recipient through a purchase or lease agreement.

Section 3—Acquisition Procedures for Personal Property

This section sets forth the proposed procedures governing the acquisition of personal property with LSC funds. The requirements herein are based on both the FAR and OMB Circular A–110. Through the use of these procedures, LSC intends to encourage recipients to conduct their property acquisitions in a manner that provides free and open competition to the maximum extent practical.

Acquisitions of over $10,000 would have to be accomplished by written competitive quote.[3] The FAR and OMB Circular A–110 each require that requests for quotes clearly identify the salient characteristics of the property to be acquired, as well as the basis for evaluating quotes and selecting a source. LSC proposes to require competitive quotes to help ensure that the recipient has a reasonable basis for determining that it is receiving a fair deal that meets its needs.

The proposed procedures would permit sole source acquisitions if circumstances prevent requesting competitive quotes. In such cases, recipients would have to document the reason(s) for conducting the acquisition on a sole source basis. This proposed requirement is consistent with the FAR.

Further, individual item acquisitions of over $10,000 would have to be approved in advance by LSC. This includes acquisitions made to replace already-existing property, the original acquisition of which LSC may have approved at a prior point in time. Consistent with previous LSC guidance, requests for prior approvals would have to include a justification stating the need for the acquisition, a brief description of the property to be acquired and a description of the acquisition process used, including the quotes received by the recipient.

Section 4—Acquisition Procedures for Real Property

Section 4 contains the proposed procedures for the acquisition of real property. Under this section, prior to acquiring real property, a recipient would have to identify and evaluate at least three potential sites. This proposal draws upon a similar requirement in the FAR relating to the selection of sources for the leasing of real property. The types of costs to be considered in an analysis of an acquisition of real property would be those which LSC

[3] The proposed requirement for ''written'' quotes is intended to include electronic transmission of information. This approach is consistent with Federal policy in the FAR.

asks recipients to describe when seeking prior approval of an acquisition of real property pursuant to LSC Program Letter 98–4, dated July 1, 1998. Recipients are encouraged to negotiate with potential sources prior to entering a contract in order to obtain the most favorable contract terms possible.

This section proposes to retain LSC's prior approval requirement for acquisitions of real property.[4] Sections 4(d)(1) through (7) reflect provisions from Program Letter 98–4 setting forth the types of information which LSC requires recipients to submit in support of a request for prior approval of an acquisition of real property.

This section also proposes to retain LSC's longstanding practice of requiring, as a condition of LSC's approval of the acquisition of real property, a formal agreement between LSC and the recipient setting forth the terms of LSC's approval. These agreements have included provisions governing the disposal of property purchased with LSC funds, both during the grant term and upon cessation of funding and requiring the recipient to record LSC's interest in the property.

Finally, LSC proposes to restate in the PAMM, LSC's requirement in 45 CFR 1630.5(b)(4) that recipients obtain prior approval of expenditures for capital improvements. This requirement applies to leasehold improvements as well as improvements to recipient-owned property. LSC proposes to retain the existing requirement from Program Letter 98–4 that recipients submit certain information in support of requests for prior approval of capital improvements.

Section 5—Retention and Use of Property Acquired With LSC Funds

Section 5 sets forth the proposed standards for the management of real and personal property acquired with LSC funds. These standards build upon the principle contained in OMB Circular A–110, that grant recipients should possess full ownership of personal and real property purchased in whole or in part with grant funds. With regard to leased personal property, LSC proposes to make clear current LSC policy that leased property may be used according to the lease terms during the term of an LSC grant or contract, and must be disposed of according to the lease terms in the event that there is a cessation of LSC funding.

Under the provisions of this section, recipients would be permitted to retain property as long as they continue to receive LSC funding. This represents a change from the existing policy which permits recipients to retain property as long as it is needed for civil legal assistance. This change is being proposed to reflect the heightened need, in the competitive grant environment, for LSC to ensure that its funds are available to the maximum extent possible for LSC recipients and programs.

Notwithstanding the above, LSC proposes to permit recipients to use property acquired with LSC funds for permissible non-LSC activities, such as the representation of income-ineligible clients, provided that such other use does not interfere with the performance of the recipient's duties under its LSC grant. This flexibility parallels similar provisions in OMB Circular A–110. LSC further proposes to allow a recipient to lease space to others or otherwise allow the use of its property for restricted activities, provided that the recipient charges a fair market price for such lease or property use. Any such use would also have to be consistent with the program integrity requirements of 45 CFR Part 1610. These provisions incorporate language from OMB Circular A–110 and are consistent with IRS rules governing the provision of services by non-profit organizations.

Section 5(f) addresses the use of a particular subset of personal property—copyrights. Incorporating language from OMB Circular A–110, this paragraph proposes that recipients be permitted to own copyrights to publications, software, and other copyrightable works created in whole or part with LSC funds. However, in conformance with longstanding LSC policy, recipients creating or otherwise obtaining copyrightable materials with LSC funds would have to provide LSC free access to and use of such materials, including the right to make such materials available to other LSC recipients.

Section 6—Disposal of Personal Property Acquired With LSC Funds

This section proposes to establish requirements governing the disposal of personal property. Generally, a recipient would have considerable discretion in selecting methods of disposing of personal property purchased with LSC funds, except at the point that the recipient ceased to receive LSC funds. At the cessation of LSC funding, recipients would have an obligation to LSC with respect to items of personal property.

LSC proposes, as noted above, to permit recipients, considerable latitude in disposing of personal property purchased with LSC funds during the term of an LSC grant. Specifically, under this section, recipients would be permitted to: (1) Trade property to suppliers or vendors in return for reductions in the acquisition price of new or replacement property; (2) sell the property, by the solicitation of formal quotes for property with a value of over $15,000, or by negotiation where the property has a value $15,000 or less or where advertising for bids has not resulted in reasonable bid prices;[5] (3) transfer the property to third parties which are eligible under statute to receive support from LSC; (4) transfer the property to non-LSC programs, subject to LSC approval; or (5) transfer the property to other nonprofit programs serving the poor in the same community. These options are consistent with current Federal practice as reflected in OMB Circular A–110, the Federal Property Management Regulations (41 CFR Chapter 101) and the 1981 Property Manual.

Under this section, recipients would be prohibited from disposing of personal property purchased with LSC funds by making such property available to recipients' board members or employees (by sale or otherwise). Although Federal policy does not restrict sales of property to employees, LSC is concerned that such sales could create a real or perceived conflict of interest, particularly since such property would have significant market value (since property would be defined as having to be worth more than $1000). Disposition of items not meeting the $1000 value threshold would not be considered property subject to the PAMM and, therefore, would not be subject to this restriction. LSC specifically seeks comment on this issue. What are recipients' current policies and experience in this area?

LSC is proposing different options for the disposal of personal property at the point that a recipient ceases to receive LSC funding. Recipients would be permitted to transfer or retain personal property purchased with LSC funds, provided that LSC would be compensated in an amount equal to the percentage of the property's acquisition cost funded with LSC monies. These provisions are based on disposal options set forth in OMB Circular A–110. It is

[4] LSC's longstanding policy is that leases of real property do not require prior approval and LSC does not propose any change to that policy.

[5] By reference to 45 CFR 1630.12, section 6(c) would clarify that income from the sale of property purchased with LSC funds is LSC derivative income subject to the requirements of the LSC Act, regulations, and other applicable law. As such, LSC derivative income becomes part of the LSC fund balance which may need to be returned to LSC if the fund balance amount exceeds the 10 or 25 percent limits established by 45 CFR Part 1628.

anticipated that LSC and recipients will identify, on a case by case basis at the time of cessation of funding, the best method for disposing of personal property purchased with LSC funds.

With respect to leased personal property, LSC proposes that during the term of an LSC grant or contract, recipients be permitted to dispose of such leased with LSC funds in accordance with the terms of the lease. When a recipient ceases to receive LSC funding, the recipient would be required to dispose of items of personal property leased with LSC funds in accordance with the terms of the lease.

Section 7—Disposal of Real Property Acquired With LSC Funds

Section 7 sets forth the proposed standards for the disposal of real property purchased with LSC funds. As with the personal property disposal standards in Section 6, LSC proposes to provide different options for disposals occurring during the grant term and at the cessation of LSC funding

For recipients seeking to dispose of real property during the grant term, LSC proposes to continue the longstanding LSC policy whereby recipients are permitted to sell real property acquired with LSC funds.[6] Recipients would also be permitted to transfer real property to other LSC recipients. This is consistent with most LSC property interest agreements between LSC and recipients using LSC funds to purchase real property.

At the point of cessation of LSC funding, LSC proposes to permit recipients to sell, transfer or retain real property acquired with LSC funds, provided that LSC is compensated in an amount equal to the percentage of the property's acquisition cost funded by LSC monies. LSC would have to approve any such disposition in advance.

Section 8—Documentation and Recordkeeping Requirements

Section 8 contains proposed requirements for the documentation of property acquisitions and disposals. This section is intended to ensure that recipients create and retain the required records in support of property acquisition and disposal decisions and LSC fund expenditures related thereto.

[6] By reference to 45 CFR 1630.12, Section 7(b) would clarify that income from the sale of property acquired with LSC funds is LSC derivative income subject to the requirements of the LSC Act, regulations, and other applicable law. As such, LSC derivative income becomes part of the LSC fund balance which may need to be returned to LSC if the fund balance amount exceeds the limits established by 45 CFR Part 1628.

Section 9—Recipient Policies and Procedures

This section proposes to require that recipients adopt written procurement procedures. This proposal stems from OMB Circular A–110 and is intended to ensure that recipients have standardized procurement procedures that are consistent with LSC requirements. LSC does not propose to collect, review or approve such procedures, although a recipient would have to make them available to LSC upon request for LSC oversight and compliance purposes.

Property Acquisition and Management Manual

Section 1—Purpose and Scope

The purpose of this PAMM is to set forth standards governing the acquisition, retention, use and disposal of personal and real property acquired in whole or in part with LSC funds. The standards set forth herein apply to both real and non-expendable personal property (equipment), but not apply to expendable personal property (supplies) or services, except for services for capital improvements which are subject to the requirements of Section 4(f) herein.

The requirements set forth herein apply to acquisitions made on or after the PAMM's effective date as published in the **Federal Register**. For purchases of real property prior to the PAMM's effective date, the written agreement between the program and LSC will control. For prior acquisitions of personal property, the 1981 Property Manual will control.

Section 2—Definitions

(a) *Acquisition* means a purchase of real property or a purchase or lease of personal property in whole or in part with LSC funds. For the purposes of this PAMM, recipients should treat a purchase or lease of related property as a single acquisition when the property can be readily obtained through a single contract with a single source.

(b) *Capital improvement* means an expenditure of an amount exceeding $10,000 to improve real property through construction or the purchase of immovable items which become an integral part of real property.

(c) *Lease* means a contract for the use of property during a specified period for a specified price.

(d) *LSC property interest agreement* means a formal written agreement between LSC and a recipient setting forth the terms of LSC's approval of the recipient's use of LSC funds to acquire real property.

(e) *Personal Property* means property of any kind, including tangible property (having physical existence), such as equipment, or intangible (having no physical existence), such as copyrights or patents, but does not include supplies or real property or improvements to real property.[7]

(f) *Property* means any real or personal property having a market value greater than $1,000 and a useful life of more than one year.

(g) *Purchase* means to obtain and take ownership of property through the payment of money or its equivalent.

(h) *Quote* means a quotation or bid from a potential source interested in selling or leasing property to a recipient.

(i) *Real property* means land, buildings, and appurtenances, including capital improvements thereto, but not including moveable personal property.

(j) *Source* means a supplier, vendor, or contractor who has agreed to provide property to a recipient through a purchase or lease agreement.

Section 3—Acquisition Procedures for Personal Property

(a) Before making an acquisition of personal property that has an aggregate cost over $10,000, a recipient shall make a written request from at least three potential sources for competitive quotes for the property.

(b) Written requests for quotes must include:

(1) A clear and accurate description of the property to be acquired; and

(2) Identification of the criteria which will be the basis for the recipient's selection of a source.

(c) The selection of a source shall be on the basis of criteria established in the request for quotes. Such criteria may include price alone or price in combination with other factors.

(d) Notwithstanding paragraph (a) of this section, a recipient may request

[7] Section 2(c) adapts and incorporates the definition of personal property which appears in Section 2(v) of OMB Circular A–110. For the purposes of this manual, supplies, which are normally considered to be personal property, are omitted from the definition because the manual is not applicable to the purchase, retention or use of supplies.

quotes from a sole source when circumstances prevent the requesting of competitive quotes. When a request for quotes is made to a sole source, the recipient shall maintain written documentation of the reason(s) for not obtaining competitive quotes.

(e) The use of more than $10,000 of LSC funds to acquire an individual item of personal property requires LSC's prior approval pursuant to 45 CFR 1630.5(b)(2), whether or not the acquisition is to replace existing property. When requesting LSC's prior approval of an acquisition of personal property, recipients shall provide to LSC:

(1) Three written quotes, if obtained; and

(2) A letter or memorandum containing:

(i) A statement of need explaining how the acquisition will further the delivery of legal services to eligible clients;

(ii) A brief description of the property to be acquired, including the make and manufacture of the item, the name of the source supplying the item, the quantity to be acquired, and the total dollar amount of the acquisition; and

(iii) A brief description of the acquisition process, including the names of the potential sources who submitted quotes, the amounts of the quotes, the quantity of items offered by the potential sources, and a brief explanation of the reasons for selecting a particular source to supply the item(s). In the absence of quotes, the description should explain what circumstances prevented the recipient from obtaining quotes.

Section 4—Acquisition Procedures for Real Property

(a) Prior to acquiring real property with LSC funds, recipients shall conduct an informal market survey in order to identify and evaluate at least three potential sources. Recipients may retain a real estate agent or broker for the purposes of conducting a market survey, provided that the cost is reasonable.

(b) The evaluation of potential acquisitions of real property shall include consideration of:

(1) The total cost of the acquisition; and

(2) The quality of the property to be acquired.

(c) Recipients shall conduct 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. The cost analysis shall include a comparison of:

(1) The total costs of acquiring the property over the life of the financing of the acquisition; with

(2) The total costs of leasing similar property over the same period of time.

(d) The use of LSC funds to acquire real property requires LSC's prior approval pursuant to 45 CFR 1630.5(b)(3). When requesting LSC prior approval of an acquisition of real property, recipients shall provide to LSC in writing:

(1) A statement of need explaining how the acquisition will further the delivery of legal services to eligible clients in terms of:

(i) The location of the property in terms of accessibility to program clients;

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

(iii) Whether the property will replace or be in addition to existing program offices;

(2) A brief analysis comparing:

(i) The estimated average annual cost of the planned acquisition over the life of the financing of the acquisition, including the costs of maintenance, utilities, and taxes; with

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

(3) A current, independent appraisal of a type sufficient to secure a mortgage;

(4) Documentation of board approval consisting of either a board resolution or board minutes demonstrating approval of the acquisition;

(5) A statement of handicapped accessibility sufficient to meet the requirements of 45 CFR 1624.5(c);

(6) A copy of an acquisition agreement, contract, or other document containing a description of the property and the terms of the acquisition; and

(7) An explanation of the anticipated financing of the acquisition including:

(i) The estimated total cost of the acquisition, including renovations, moving, and closing costs;

(ii) The source and amount of funds to be applied toward a down payment;

(iii) The source of funds to be applied toward a monthly mortgage payment, if any;

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

(v) The source and estimated amounts of funds needed to cover moving, renovations, and closing costs.

(e) At the time of approving a recipient's use of LSC funds to acquire real property, LSC and the recipient shall enter into a written LSC property interest agreement, which shall include, at a minimum:

(1) Provisions consistent with Sections 5(a), 7(a) and 7(b) herein;

(2) An agreement by the recipient not to encumber the property without prior approval of LSC;

(3) An agreement by the recipient to record, in accordance with appropriate and applicable state law, LSC's interest in the property.

(f) Expenditures for capital improvements require LSC's prior approval pursuant to 45 CFR 1630.5(b)(4). When requesting LSC's prior approval of such expenditures, recipients shall provide to LSC in writing, the following:

(1) A statement of need explaining how the improvement will further the delivery of legal services to eligible clients;

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

(3) A brief description of the contractor selection process, including the names of the contractors who submitted quotes, the amounts of the quotes, and a brief explanation of the reason(s) for selecting a particular contractor to perform the work.

Section 5—Retention and Use of Property Acquired With LSC Funds

(a) Subject to the requirements herein, recipients may use LSC funds to acquire and use personal and real property for the purpose of delivering legal services to eligible clients. Title to personal and real property purchased in whole or in part with LSC funds vests in the recipient subject to the conditions set out in paragraphs (b) through (f) of this section.

(b) Recipients may retain personal and real property purchased with LSC funds for as long as they continue to receive LSC funding. When a recipient ceases to receive LSC funding, property purchased with LSC funds shall be disposed of in accordance with the requirements of Sections 6(d) and 7(c) herein.

(c) Recipients may retain personal property obtained through a lease using LSC funds for as long as they continue to receive LSC funds, subject to the terms of the lease. When a recipient ceases to receive LSC funding, property leased with LSC funds shall be disposed of in accordance with Section 6(b) herein.

(d) When using personal or real property acquired in whole or in part with LSC funds for the performance of an LSC grant or contract, recipients may use such property for other activities, provided that such other activities do not interfere with the performance of the LSC grant or contract, and provided that such other uses meet the requirements of paragraphs (e) and (f) of this section.

(e) If a recipient uses personal property acquired in whole or in part with LSC funds to provide services to another organization which engages in activity restricted by the LSC Act, regulations, or other applicable law, the recipient shall charge the other organization a fee which shall not be less than that which private non-profit organizations in the same locality charge for the same services under similar conditions.

(f) If a recipient uses real property acquired in whole or in part with LSC funds to provide space to another organization which engages in activity restricted by the LSC Act, regulations, or other applicable law, the recipient shall charge the other organization an amount of rent which shall not be less than that which private non-profit organizations in the same locality charge for the same amount of space under similar conditions.

(g) Recipients may copyright any work that is subject to copyright and was developed, or for which ownership was obtained, under an LSC grant or contract, provided that LSC reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use work copyrighted by recipients, when the work is obtained or developed in whole or in part with LSC funds.

Section 6—Disposal of Personal Property Acquired With LSC Funds

(a) During the term of an LSC grant or contract, recipients may dispose of items of personal property leased with LSC funds in accordance with the terms of the lease.

(b) When a recipient ceases to receive LSC funding, the recipient shall dispose of items of personal property leased with LSC funds in accordance with the terms of the lease.

(c) During the term of an LSC grant or contract, recipients may dispose of items of personal property purchased with LSC funds by:

(1) Trading in the property at the time of acquiring replacement property;

(2) Selling the property at a reasonable negotiated price, without advertising for quotes, where the property item has a current fair market value not exceeding $15,000;

(3) Selling the property after having advertised for and received quotes, where the current fair market value of the property item exceeds $15,000;

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

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

(d) Recipients shall not dispose of items of personal property by sale, donation or other transfer of the property to the recipients' board members and employees.

(e) During the term of an LSC grant or contract, recipients selling personal property purchased with LSC funds may retain and use income from the sale according to the requirements of 45 CFR 1630.12 and 45 CFR 1628.3.

(f) When a recipient ceases to receive LSC funding, subject to the approval of LSC, recipients shall dispose of individual items of personal property purchased with LSC funds according to one of the following methods:

(1) The recipient may transfer the property to another recipient of LSC funds, in which case the recipient transferring the property shall be entitled to compensation in the amount of that percentage of the property's current fair market value which is equal to that percentage of the property's acquisition cost which was borne by non-LSC funds;

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

(3) The recipient may sell the property and retain the proceeds from the sale after compensating LSC for that percentage of the property's current fair market value which is equal to that percentage of the property's acquisition cost which was borne by LSC funds;

(4) The recipient may retain the property, in which case LSC shall be entitled to compensation from the recipient for that percentage of the property's current fair market value which is equal to that percentage of the property's acquisition cost which was borne by LSC funds.

Section 7—Disposal of Real Property Acquired With LSC Funds

(a) During the term of an LSC grant or contract, recipients may dispose of real property acquired with LSC funds by:

(1) Selling the property after having advertised for and received offers, in which case the recipient may retain and use the proceeds from the sale of the property for the purpose of delivering legal services to eligible clients; or

(2) Transferring the property to another recipient of LSC funds, in which case the recipient transferring the property shall be entitled to compensation in the amount of that percentage of the property's current fair market value which is equal to that percentage of the property's acquisition cost which was borne by non-LSC funds.

(b) During the term of an LSC grant or contract, recipients selling real property acquired with LSC funds may retain and use income from the sale of the property according to the requirements of 45 CFR 1630.12 and 45 CFR 1628.3.

(c) When a recipient owning real property acquired with LSC funds ceases to receive funding from LSC, the recipient shall, with the approval of LSC, dispose of the real property according to one of the following methods:

(1) The recipient may transfer title to the property to another recipient of LSC funds, in which case the recipient transferring the property shall be entitled to compensation for that percentage of the property's current fair market value which is equal to that percentage of the property's acquisition cost which was borne by non-LSC funds;

(2) The recipient may retain title to the property without further obligation to LSC after the recipient compensates LSC for that percentage of the property's current fair market value which is equal to the percentage of the property's acquisition cost which was borne by LSC funds;

(3) The recipient may sell the property and compensate LSC for that percentage of the property's current fair market value which is equal to the percentage of the property's acquisition cost that was borne by LSC funds, after the deduction of actual and reasonable selling and fix-up expenses, if any.

Section 8—Documentation and Recordkeeping Requirements

(a) Recipients shall account for personal property acquired with LSC funds according to the requirements of Sections 2–2.4 and 3–5.4(c) of the Accounting Guide for LSC Recipients.

(b) Recipients acquiring real property with LSC funds shall keep such records as are customary for the retention of real property in the jurisdiction where the property is located.

(c) Recipients shall account for income earned from the sale of real or personal property purchased with LSC funds in accordance with the requirements of 45 CFR 1630.12.

(d) Documentation of real property acquisitions shall consist of the acquisition contract, evidence of a market survey, cost or price analysis, and an explanation of the reason(s) for selecting a particular source, a copy of an independent appraisal of the property's market value, evidence of board approval of the acquisition, a statement of handicapped accessibility sufficient to meet the requirements of 45 CFR 1624.5(c), and a copy of the LSC property interest agreement required by Section 4(e) herein.

Section 9—Recipient Policies and Procedures

Recipients shall develop written policies and procedures which implement, at a minimum, the requirements of Sections 3 and 4 herein.

Victor M. Fortuno,

General Counsel and Vice President for Legal Affairs.

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LEGAL SERVICES CORPORATION

Rulemaking Protocol

AGENCY: Legal Services Corporation.

ACTION: Announcement of adoption of rulemaking protocol and establishment of new rulemakings notification mailing list.

SUMMARY: This notice sets forth the text of a new rulemaking protocol adopted by the LSC Board of Directors which will govern LSC rulemaking activities and announces the establishment of a mailing list for persons and organizations wishing to be notified of future LSC rulemakings.

DATES: This Rulemaking Protocol became effective upon its adoption at the LSC Board of Directors Meeting on September 18, 2000.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 750 First Street, NE, Washington, DC 20002–4250; 202/336–8817 (phone); 202/336–8952 (fax); mcondray@lsc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Legal Services Corporation is authorized by Congress to issue regulations as necessary to carry out its mission. See 42 U.S.C. 2996(e). LSC, however, is not a ''department, agency, or instrumentality of the Federal Government.'' 42 U.S.C. 2996(d). As such, LSC is not subject to the requirements of the Administrative Procedures Act, which governs the rulemaking activities of Federal agencies. Rather, LSC is required to ''afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the **Federal Register** at least 30 days prior to their effective date all its rules, regulations, guidelines and instructions.'' 42 U.S.C. 2999(g).

Throughout its history, LSC has conducted its rulemaking in compliance with the statutory requirements described above, but has not had a written statement of the Board of Directors (''Board'') setting forth the procedures to be followed in the course of LSC rulemaking activities. The Board determined that, while there is no legal requirement for LSC to have a written protocol related to rulemaking, having one would serve to advance LSC's policy of conducting its rulemaking activities in a spirit of cooperative dialog with our recipients and other interested parties. Accordingly, on September 18, 2000, at a meeting of its Board of Directors, the Legal Services Corporation adopted a new Rulemaking Protocol to govern its rulemaking activities. The text of the Protocol is set forth below.

It should be noted that, since this Protocol is a statement of LSC internal procedure and is not a ''rule, regulation, guideline or instruction,'' LSC is not required by law to publish this Protocol or seek public comment. LSC is choosing to publish this Protocol in the **Federal Register** (and has also posted it on the LSC website at http:\\www.lsc.gov) in furtherance of LSC's interest in and policy of conducting its business in a fair and open manner.

Rulemaking Protocol

This Rulemaking Protocol is intended to reflect the policy of LSC to conduct its rulemaking activities in a spirit of cooperative dialog with our recipients and other interested parties [1] and has the following six objectives:

1. Enhanced implementation of the will of Congress as expressed in the LSC Act, amendments thereto and other statutory enactments;
2. Increased public participation in the manner and method in which LSC promulgates rules;
3. The adoption of procedures that reflect the best practices in rulemaking as articulated in the Administrative Procedures Act, the Negotiated Rulemaking Act of 1990 and Executive Order 12866;
4. Implementation of LSC's strategic initiatives as set forth in Strategic Directions, 2000–2005 (adopted January 29, 2000);
5. Formalization of LSC's policies governing rulemaking and specifically reserving specific responsibilities and authorities unto the Board; and
6. Development of a rulemaking protocol that is efficient and effective.

Regulatory Policy Direction

The Board, through the Operations and Regulations Committee (''Committee''), provides direction on LSC regulatory policy and establishes priorities for LSC rulemaking activities. The Committee will look to staff to effectuate LSC rulemaking policies and priorities through this Protocol. Final authority over LSC rulemaking policies and actions rests with the Board.

Initiation of Rulemaking

The impetus for a rulemaking [2] may come from any one of several sources; Congressional directive; internal LSC initiative (Board or Committee members and/or staff); or a formal request from a member of the regulated community or general public. Once the Board has agreed on a potential subject for rulemaking, LSC's Office of Legal Affairs [3] (''OLA''), in close consultation with appropriate Corporation staff, will develop a Rulemaking Options Paper (''ROP''). The ROP will contain a discussion of the subject for the potential rulemaking, and will include an outline of the policy and legal issues involved. The ROP shall also recommend whether the potential rulemaking should be Negotiated or accomplished by Notice and Comment Rulemaking. The appropriate rulemaking process shall be selected on a case-by-case with full recognition, however, of LSC's policy favoring open and collaborative rulemaking. It is anticipated that most rulemaking will be Negotiated. [4] Once the ROP is

[1] Although this Draft Protocol reflects LSC policy, it is not intended to and shall not create or confer any rights for or on behalf of any person or party and shall not establish legally enforceable rights against LSC or establish any legally enforceable obligations on the part of LSC, its directors, officers, employees and other agents.

[2] Rulemaking includes both the development of new rules and regulations and the amendment of existing rules and regulations.

[3] The Office of Legal Affairs is the office previously known as the Office of General Counsel and serves as legal advisor and corporate secretary to LSC.

[4] There may be instances in which use of Negotiated Rulemaking is unnecessary or inappropriate, such as for non-controversial issues or issues relating solely to LSC's internal operations. In such cases, LSC may determine that

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